



Mayor
Donna Schmitt
Councilmembers
Robert Williams
John Murzyn, Jr.
Connie Buesgens
Nick Novitsky
City Manager
Walter R. Fehst

AGENDA
CITY COUNCIL MEETING
CITY HALL-COUNCIL CHAMBERS
590 40th AVE NE
MONDAY, NOVEMBER 13, 2017
7:00 PM

1. CALL TO ORDER/ROLL CALL

2. INVOCATION

Invocation provided by Rachel James, First Lutheran

3. PLEDGE OF ALLEGIANCE

4. MISSION STATEMENT

Our mission is to provide the highest quality public services. Services will be provided in a fair, respectful and professional manner that effectively address changing citizen and community needs in a fiscally-responsible manner.

5. APPROVAL OF AGENDA

(The Council, upon majority vote of its members, may make additions and deletions to the agenda. These may be items brought to the attention of the Council under the Citizen Forum or items submitted after the agenda preparation deadline.)

6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS

7. CONSENT AGENDA

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

A. Approve Minutes of the City Council

MOTION: Move to approve the minutes of the City Council meeting of October 23, 2017

pg 5

B. Accept Board & Commission Meeting Minutes

MOTION: Move to accept the Planning & Zoning minutes from the October 3, 2017 meeting

pg 18

MOTION: Move to accept the Library Board minutes from the October 4, 2017 meeting

pg 30

MOTION: Move to accept the EDA minutes from the October 9, 2017 meeting

pg 32

MOTION: Move to accept the Traffic commission minutes from the February 6, 2017 meeting

pg 37

MOTION: Move to accept the Charter Commission minutes from the July 20, 2017 meeting

pg 39

MOTION: Move to accept the Park & Recreation Comm minutes from the July 26, 2017 meeting

pg 42

C. Consideration of a resolution canceling the City Of Columbia Heights regular City Council Meeting scheduled for Monday December 25, 2017 pg 47

MOTION: Move to waive the reading of Resolution No. 2017-117, there being ample copies available to the public.

MOTION: Move to adopt Resolution 2017-117, being a Resolution canceling the City Council meeting scheduled for December 25, 2017

D. Approve membership renewal for one year with the League of MN Cities pg 49

MOTION: Move to approve membership renewal for one year with League of MN Cities for \$16,980.

E. Resolution 2017-115 amending Resolution 2016-99, to transfer funding authority for certain comprehensive plan activities from Fund 226 Special Projects to Fund 420 Redevelopment. pg 51

MOTION: Move to waive the reading of Resolution 2017-115, there being ample copies available to the public.

MOTION: Move to adopt resolution 2017-115 amending resolution 2016-99, to transfer funding authority for certain comprehensive plan activities from Fund 226 Special Projects to Fund 420 Redevelopment.

F. Final payment to Park Construction Company for 2015 Street Rehabilitation – Zone 1 and State Aid Street Overlay, Projects 1502 and 1505 pg 53

MOTION: Move to accept the work for 2015 Street Rehabilitation Zone 1 and 2015 State Aid Street Overlay, City Project Numbers 1502 and 1505, and authorize final payment of \$8,738.65 to Park Construction Company of Minneapolis, Minnesota.

G. Final payment to St. Paul Utilities, Inc. For water and sanitary services for Library building, Project No. 1410 pg 55

MOTION: Move to accept the utility work for the new Columbia Heights Public Library, Project No. 1410, and authorize final payment of \$6,239.00 to St. Paul Utilities, Inc. of Little Canada, Minnesota.

H. Approve the Sale of 1985 Ford Fire Pumper to Atwater Fire Department pg 57

MOTION: Move to approve the sale of the 1985 Ford fire pumper, as is, to the Atwater Fire Department for the sum of \$7000.00.

I. Approval Consideration for the Issuance of Multifamily Housing Revenue Bonds pg 60

MOTION: Move to waive the reading of Resolution 2017-119, there being ample copies available to the public.

MOTION: Move to approve Resolution No. 2017-119, a resolution providing final authorization for the issuance of revenue bonds or other obligations under Minnesota Statutes, Chapter 462C, as amended, to finance the costs of a multifamily housing development; approving the forms of and authorizing the execution and delivery of the obligations and related documents; providing for the security, rights, and remedies with respect to the obligations; and taking certain other actions.

J. Approve Business License Applications pg 247

MOTION: Move to approve the items as listed on the business license agenda for November 13, 2017.

K. Payment of Bills

pg 250

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8, the City Council has received the list of claims paid covering check number 167928 through 168186 in the amount of \$1,249,649.09.

MOTION: Move to approve the Consent Agenda items.

8. PUBLIC HEARINGS

A. Repeat Service call Service Fee Appeal

pg 260

MOTION: Move to uphold the \$250 Nuisance call for Service Fee imposed on Ken Hertz, owner of 940-39th Ave NE.

B. Adopt Resolution For Emergency Abatement, 4329 Main St NE

pg 268

MOTION: Move to close the public hearing and to waive the reading of Resolutions 2017-118 and 2017-120, there being ample copies available to the public.

MOTION: Move to adopt Resolution Number 2017-118, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206.

MOTION: Move to adopt Resolution Number 2017-120, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206.

C. Resolution No. 2017-116, a Conditional Use Permit for assembly, manufacturing and/or processing on the property located at 2301 37th PL. NE.

pg 271

MOTION: Waive the reading of Resolution No. 2017-116, there being ample copies available to the public.

MOTION: Move to approve Resolution No. 2017-116, being a resolution approving a Conditional Use Permit subject to certain conditions of approval.

9. ITEMS FOR CONSIDERATION

A. Other Ordinances and Resolutions

pg 290

a. HVAC Maintenance Proposals

MOTION: Move to accept the bid for HVAC Preventive Maintenance Services from Horwitz for City facilities, based upon their low, qualified, responsible bid and, furthermore, to authorize the Mayor and City Manager to enter into a 3-year contract for the same.

pg 292

b. Solar Gardens

MOTION: Move to sign a Letter of Intent for entering into a 25 year contract with New Energy Equity of Annapolis, MD for a flat rate subscription and authorize the Mayor and City Manager to enter into an agreement for the same.

B. Bid Considerations

C. New Business and Reports

10. CITY COUNCIL AND ADMINISTRATIVE REPORTS

- Report of the City Council
- Report of the City Manager
- Report of the City Attorney

11. COMMUNITY FORUM

At this time, individuals may address the City Council about any item not included on the regular agenda. Speakers are requested to come to the podium, sign their name and address on the form for the Council Secretary’s record, and limit their comments to five minutes. Individuals are asked to state their name for the record. The City Council will listen to the brief remarks, ask clarifying questions, and if needed, request staff to follow up or direct the matter to be added to an upcoming agenda. Generally, the City Council will not take official action on items raised at the Community Forum at the meeting in which they are raised.

12. ADJOURNMENT

Walt Fehst, City Manager

Auxiliary aids or other accommodations for disabled persons are available upon request when the request is made at least 48 hours in advance. Please contact the City Clerk at 763-706-3611 or kbruno@columbiaheightsmn.gov, to make arrangements.

**OFFICIAL PROCEEDINGS
CITY OF COLUMBIA HEIGHTS
CITY COUNCIL MEETING
OCTOBER 23, 2017**

The following are the minutes for the regular meeting of the City Council held at 7:00 PM on Monday October 23, 2017 in the City Council Chambers, City Hall, 590 40th Ave. N.E., Columbia Heights, Minnesota

1. CALL TO ORDER/ROLL CALL

Mayor Schmitt called the meeting to order at 7:01 p.m.

Present: Mayor Schmitt, Councilmember Williams, Councilmember Buesgens, Councilmember Murzyn, Jr. and Councilmember Novitsky

Also Present: Joe Kloiber; Acting City Manager, Jim Hoeft; City Attorney, Kevin Hansen; Public Works Director, Jesse Davies; Office Assistant, Lenny Austin; Interim Police Chief, Gary Gorman; Fire Chief, and Katie Bruno; City Clerk/Council Secretary

2. INVOCATION

Invocation provided by Councilmember Bobby Williams

3. PLEDGE OF ALLEGIANCE

4. MISSION STATEMENT, Read by Mayor Schmitt.

Our mission is to provide the highest quality public services. Services will be provided in a fair, respectful and professional manner that effectively address changing citizen and community needs in a fiscally-responsible and customer friendly manner.

5. APPROVAL OF AGENDA

Motion by Councilmember Buesgens, seconded by Councilmember Murzyn, Jr. to approve the agenda as presented. All Ayes, Motion Carried.

6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS

A. Proclamation recognizing Northeast Bank's 70th Anniversary

Mayor Schmitt read the proclamation, and announced Belva Rasmussen will be celebrating her 80th Birthday. Andrea Murphy, Jason Helgemoe and Sue Sjoselius accepted the proclamation on behalf of Northeast Bank.

Mayor Schmitt announced Planet Fitness will have their Grand Opening on Wednesday, October 25th from 3:00-7:00 PM.

7. CONSENT AGENDA

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

A. Approve Minutes of the City Council

MOTION: Move to approve the minutes of the City Council meeting of October 9, 2017

MOTION: Move to approve the minutes of the Police Dept Listening Sessions, October 5, 2017

MOTION: Move to approve the minutes of the City Council Work Session, October 2, 2017

B. Accept Board & Commission Meeting Minutes

MOTION: Move to accept the EDA minutes from September 5, 2017

C. Approve Resolution 2017-108 Amending 2017 Budget (re Transfer of Funds)

MOTION: Motion to waive the reading of Resolution No. 2017-108, there being ample copies available to the public.

MOTION: Motion to adopt Resolution 2017-108 being a Resolution amending the 2017 budget to use certain additional revenue.

D. Authorize a School Liaison Contract with Columbia Heights School District

MOTION: Move to authorize the Mayor and Police Chief to enter into a Joint Powers agreement with Columbia Heights Public Schools for the provision of a Police School Liaison Officer program as stipulated in the Joint Powers Agreement for the period of January 1 through December 31, 2018.

E. Resolution 2017-109 adopting a Data Retention Schedule for the CH Police Department

MOTION: Motion to waive the reading of Resolution No. 2017-109, being a resolution adopting a Data Retention Schedule for the Columbia Heights Police Department, there being ample copies available to the public.

MOTION: Motion to adopt Resolution No. 2017-109 being a Resolution adopting a Data Retention Schedule for the Columbia Heights Police Department.

F. Approve Cooperative Agreement regarding Public Safety related to 2018 NFL Super Bowl Security

MOTION: Move to authorize the Mayor and City Manager to enter into a cooperative agreement with the City of Minneapolis regarding public safety related to 2018 National Football League Super Bowl Security.

G. First Amendment to the JPA with the City of St. Anthony for Stinson Boulevard

MOTION: Move to approve Amendment 1 in the amount of \$52,729 for modifications to the traffic signals on 37th and 39th Avenues.

H. Adopt Resolution 2017-112, ordering preparation of a report for MSAS Overlay

MOTION: Move to waive the reading of Resolution 2017-112, there being ample copies available for the public.

MOTION: Move to adopt Resolution 2017-112, being a Resolution ordering preparation of a feasibility report for MSAS Overlay, Project 1805.

I. Adopt Resolution 2017-113, ordering preparation of a report for Zone 2 Seal Coat

MOTION: Move to waive the reading of Resolution 2017-113, there being ample copies available for the public.

MOTION: Move to adopt Resolution 2017-113, being a Resolution ordering preparation of a feasibility report for Zone 2 Street Seal Coat Program, Project 1701

J. Final Payment for Sanitary Sewer Lining, Project 1604

MOTION: Move to accept the work for Sanitary Sewer Lining, City Project No. 1604, and to authorize

final payment of \$9,925.33 to Visu-Sewer, Inc. of Pewaukee, Wisconsin.

K. Approve Off-Site Gambling Permits, Columbia Heights Athletic Boosters

MOTION: Move to waive the reading of Resolution 2017-110 there being ample copies available for the public.

MOTION: Move to adopt Resolution 2017-110, being a Resolution approving the Off-Sale Gambling permit for Columbia Heights Athletic Boosters to conduct a raffle at the Taste of Columbia Heights citywide event being held November 17, 2017 at Murzyn Hall.

L. Consideration of approval of attached list of rental housing applications.

MOTION: Move to approve the items listed for rental housing license applications for October 23 2017, in that they have met the requirements of the Property Maintenance Code.

M. Approve Business License Applications

MOTION: Move to approve the items as listed on the business license agenda for October 9, 2017.

N. Payment of Bills

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8, the City Council has received the list of claims paid covering check number 167759 through 167927 in the amount of \$1,076,267.89.

Motion by Councilmember Novitsky, seconded by Councilmember Murzyn, Jr. to approve the Consent Agenda items as presented. All Ayes, Motion carried.

8. PUBLIC HEARINGS

A. Adopt Resolutions for Emergency Abatement

Fire Chief Gary Gorman reported the building has been secured, and re-secured three separate times. Councilmember Buesgens questioned the status of the house. Gorman reported the house is vacant, there is no mortgage, and property taxes are in arrears.

Motion by Mayor Schmitt, seconded by Councilmember Buesgens to close the public hearing and to waive the reading of Resolutions 2017-104, 2017-111, and 2017-114 there being ample copies available to the public. All Ayes, Motion carried.

Motion by Councilmember Buesgens seconded by Councilmember Williams to adopt Resolution Number 2017-104, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206. All Ayes, Motion carried.

Motion by Councilmember Buesgens seconded by Councilmember Williams to adopt Resolution Number 2017-111, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206. All Ayes, Motion carried.

Motion by Councilmember Buesgens seconded by Councilmember Williams to adopt Resolution Number 2017-114, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from

the property pursuant to City Code section 8.206. All Ayes, Motion carried.

Mayor Schmitt questioned the cost of each abatement. Chief Gorman responded it is a couple hundred dollars each time.

B. Consideration of revocation of the licenses to operate rental units within the City of Columbia Heights is requested against the rental properties at 3810 Jackson Street NE, 4323 Washington Street NE, and 4906 Tyler Street NE, for failure to meet the requirements of the Residential Maintenance Codes.

Fire Chief Gary Gorman reported the property at 3810 Jackson St NE has not scheduled the required re-inspections, and is currently unlicensed.

The property at 4323 Washington St NE has not scheduled the required re-inspections.

The property at 4906 Tyler St NE has not paid the \$100 re-inspection fee.

Motion by Mayor Schmitt, seconded by Councilmember Williams to close the public hearing and to waive the reading of Resolution Numbers 2017-105, 2017-106, and 2017-107, being ample copies available to the public. All Ayes, Motion carried.

Motion by Councilmember Buesgens seconded by Councilmember Williams to adopt Resolution Numbers 2017-105, 2017-106, and 2017-107, being Resolutions of the City Council of the City of Columbia Heights approving revocation pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(A) of the rental licenses listed. All Ayes, Motion carried.

Councilmember Williams questioned what the reinstatement fee is. Chief Gorman reported the re-inspection fee is 5 times the rental license fee, plus any other outstanding fees.

9. ITEMS FOR CONSIDERATION

A. Other Ordinances and Resolutions

a. Refuse and Recycling Proposals: Acceptance of Proposals and Authorizing Award of Contract

Kevin Hansen, Public Works Director reported Request for Proposals were sent out to eight contractors, five proposals were received back. The two lowest bids came from Advanced Disposal Services and Waste Management.

Jesse Davies, Public Works Office Assistant indicated the main goal of the city's solid waste management program is to reduce trash disposal, especially since the cost will increase to \$75/ton for trash disposal; while there is no cost for recycling. Davies gave an overview of the trends since 2009, and outlined the MPCA's recycling Best Management practices, adopted in April 2017.

Comparisons with the cities of Robbinsdale and White Bear Lake were displayed. Columbia Heights offers more services and is priced less than both cities.

City staff recommends that Waste Management be awarded the contract and further recommends adding services for curbside bulk recycling and organics collection for the following reasons:

1. Waste Management scored better on the reference surveys and staff evaluation.
2. Waste Management has the better price.
3. Because of the excellent bids we received, the City can offer bulk and organics recycling to the suite of refuse services and still pay 1% less in total than 2017 hauling and disposal costs.

4. Trash disposal is projected to be at a rate of at least \$75/ton in 2018. With the City disposing of 7,000 tons last year equating to over \$500,000 annually just for disposal, the City saves money by recycling because it is still \$0/ton for recycling material disposition. The MPCA states that 30-40% of trash is organic, so if one-third of 7,000 tons was recycled through organics, the City would save at least \$175,000/year.

5. Currently bulk is disposed of in the trash at \$75/ton. If we recycle it, we can use SCORE (recycling grant) to help pay for handling and receive tonnage credit for reporting. Plus some of the items can be donated which is free disposal.

6. The City receives \$95,000/year from SCORE which helps to subsidize recycling operations. Staff has requested Anoka County provide an additional \$30,000/year for our Full Service Curbside Recycling operations, plus an additional \$20,000 to subsidize 2018 organic startup costs. Waste Management also proposes an 80% rebate for curbside recyclables which could mean a financial return for the city when the commodity markets go up.

Davies reported staff is not recommend any changes to the rate established in Resolution 2015-98, additionally the price of the yard waste/organics cart will be reduced to \$2.50/month.

Director Hansen stated staff recommends entering into a five year contract with Waste Management, and accepting the alternates for organic and bulk recycling.

Councilmember Williams questioned how long the City has had organized collection. Hansen indicated it has been over 30 years. The MPCA has included organized collection as a best practice.

Mayor Schmitt asked how the Saturday morning organics recycling will be affected. Davies indicated the organics drop-off will be closed once residents are equipped to participate in curbside organic recycling. All other services will remain at the recycling center.

Dewayne Morrell-4212 Reservoir Blvd. questioned why the yard waste carts cannot be purchased by the homeowners. Director Hansen stated for safety, maintenance and consistency, the city recommends they continue to manage the carts.

Motion by Councilmember Buesgens seconded by Councilmember Williams to accept the proposals for Refuse, Recycling and Yard Waste Services from Waste Management of Minnesota, based upon their low, qualified, responsible bid and, furthermore, direct staff to prepare a 5-year contract for the base bid, and accept alternate for organics and for bulk recycling and authorize the Mayor and City Manager for the same. All Ayes, Motion carried.

B. Bid Considerations

C. New Business and Reports

10. CITY COUNCIL AND ADMINISTRATIVE REPORTS

Councilmember Novitsky reported the October 21st clean-up day was successful, groups worked on both Central Ave. and University Ave. Volunteers from the Lions, Valley View PTO, Girl Scouts, and Incarnation School 8th graders participated.

Councilmember Williams announced long time Columbia Heights residents Mickey and Peggy Rooney are celebrating their 63rd wedding anniversary.

Councilmember Buesgens attended the Police Council Academy, and the SACA fundraiser at Community Grounds. She toured the High School and North Park Elementary for the School District's bond referendum.

She toured the house at 3841 Central Ave NE, and participated with the HeightsNext Group in the clean-up day on October 21st.

Mayor Schmitt thanked Councilmember Buesgens and Interim Chief Austin for attending an event at Oak Hill Baptist Church, as she had another engagement. Mayor Schmitt along with Councilmember Novitsky, Councilmember Murzyn, Jr., City Manager Fehst, and former City Manager Malcom Watson attended a lunch hosted by M.E. Global Inc.; celebrating their 100 years in business. She also attended the Columbia Heights Homecoming game, and a domestic violence awareness movie and dialogue at Community Grounds hosted by Alexandra House. Coffee with a cop was held at SACA, and was well attended. She attended the swearing in ceremony for Officer Darry Jones on October 18th.

11. CITIZENS FORUM

Dewayne Morrell-4212 Reservoir Blvd. inquired about the vacant lot on Mcleod St., indicating Anoka County will sell the lot if the classification is changed to "buildable." Acting City Manager Kloiber suggested he talk to the Community Development Department. Director Hansen indicated the request is under review. Morrell questioned if the container at the recycling center could be reconfigured for better access. Director Hansen indicated the container will be replaced by the new vendor.

12. ADJOURNMENT

Motion by Councilmember Murzyn, Jr., seconded by Councilmember Novitsky to adjourn. All Ayes, Motion carried; Motion Carried.

Meeting adjourned at 8:09 p.m.

Respectively Submitted,
Katie Bruno,
Council Secretary/City Clerk

Resolution No. 2017-104

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Bart Mady (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4329 Main Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

FINDINGS OF FACT

1. That on October 10, 2017 the Fire Department responded to a complaint at the address listed above. Inspectors noted that the structure was damaged, open, and unsecured and rodent infested.
2. That on October 10, 2017 the Fire Chief ordered that Advanced Companies secure the structure.

3. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:

A. Approve the emergency abatement of the hazardous situation located at 4329 Main Street N.E.

CONCLUSIONS OF COUNCIL

1. That the property located at 4329 Main Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
2. That the emergency abatement of the hazardous situation located at 4329 Main Street N.E. is hereby approved.

ORDER OF COUNCIL

1. The property located at 4329 Main Street N.E. constitutes a nuisance pursuant to City Code.

Resolution No. 2017-105

Resolution of the City Council for the City of Columbia Heights approving revocation pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(A) of that certain property rental license held by Georgia Dawkins and Cel Monton (Hereinafter "License Holders").

Whereas, license holders are the legal owner of the real property located at 3810 Jackson Street NE, Columbia Heights, Minnesota,

Whereas, pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(B), written notice setting forth the causes and reasons for the proposed Council action contained herein was given to the License Holders on October 3, 2017 of a public hearing to be held on October 23, 2017.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

1. That on or about April 18, 2017, inspection office staff sent letters requesting the owners of the property complete the rental licensing process by scheduling an inspection with the Building Official. In November 2016, the Building Official performed an inspection on the property. The property failed that inspection and as of this date, no re-inspection has been scheduled. Letters were mailed by regular mail to the owners at the address listed in the property record.
2. That on October 12, 2017, inspection office staff reviewed the property file and noted that the property remained unlicensed. A Statement of Cause was mailed by regular mail to the owners at the address listed in the property records.
3. That based upon said records of the Enforcement Office, the following conditions and violations of the City's Property Maintenance Code were found to exist, to-wit:
 - a. Failure to schedule a rental license re-inspection with the Building Official.

4. That all parties, including the License Holders and any occupants or tenants, have been given the

appropriate notice of this hearing according to the provisions of the City Code, Chapter 5A, Article III 5A.306 and 5A.303(A).

ORDER OF COUNCIL

1. The rental license belonging to the License Holders described herein and identified by license number UNLIC-3810 is hereby revoked;
2. The City will post for the purpose of preventing occupancy a copy of this order on the buildings covered by the license held by License Holders;
3. All tenants shall remove themselves from the premises within 45 days from the first day of posting of this Order revoking the license as held by License Holders.

RESOLUTION NO. 2017-106

Resolution of the City Council for the City of Columbia Heights approving revocation pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(A) of that certain property rental license held by MNSF T2 SPE LLC (hereinafter "License Holder").

Whereas, license holder is the legal owner of the real property located at 4323 Washington Street N.E. Columbia Heights, Minnesota,

Whereas, pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(B), written notice setting forth the causes and reasons for the proposed Council action contained herein was given to the License Holder on September 22, 2017 of a public hearing to be held on October 23, 2017.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

1. That on August 16, 2017, inspectors for the City of Columbia Heights, inspected the property described above and noted violations. A compliance letter listing the violations was mailed by regular mail to the owner at the address listed on the Rental Housing License Application.
2. That on September 21, 2017, inspectors for the City of Columbia Heights performed a re-inspection and noted that violations remained uncorrected. A statement of cause was mailed via regular mail to the owner at the address listed on the rental housing license application.
3. That on October 12, 2017, inspectors for the City of Columbia Heights checked records for this property and noted that the violations remained uncorrected
4. That based upon said records of the Enforcement Office, the following conditions and violations of the City's Property Maintenance Code were found to exist, to-wit:
 - a. Shall repair/replace broken front porch handrail.
 - b. Shall replace missing storm door window and screen.
 - c. Shall repair/replace missing/damaged carpet in hallway and bedroom.
 - d. Shall repair/replace rotted sliding door frame on rear deck.
 - e. Shall repair/replace rotten/bare areas of rear deck.

5. That all parties, including the License Holder and any occupants or tenants, have been given the appropriate notice of this hearing according to the provisions of the City Code, Chapter 5A, Article III 5A.306 and 5A.303(A).

ORDER OF COUNCIL

1. The rental license belonging to the License Holder described herein and identified by license number F16332 is hereby revoked.
2. The City will post for the purpose of preventing occupancy a copy of this order on the buildings covered by the license held by License Holder.
3. All tenants shall remove themselves from the premises within 45 days from the first day of posting of this Order revoking the license as held by License Holder.

RESOLUTION NO. 2017-107

Resolution of the City Council for the City of Columbia Heights approving revocation pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(A) of that certain residential rental license held by Om Parkash and Arun Bedi (hereinafter "License Holders").

Whereas, license holders are the legal owners of the real property located at 4906 Tyler Street N.E., Columbia Heights, Minnesota,

Whereas, pursuant to City Code, Chapter 5A, Article IV, Section 5A.408(B), written notice setting forth the causes and reasons for the proposed Council action contained herein was given to the License Holders on October 2, 2017 of a public hearing to be held on October 23, 2017.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

1. That on August 24, 2017, an inspection was conducted on the property listed above. Inspectors found violations. A compliance order was sent via regular mail to the owners at the addresses.
2. That on September 29, 2017, inspectors re-inspected the property listed above. Inspectors noted that violations remained uncorrected. A compliance order and statement of cause was mailed via regular mail to the owners listed in the property records.
3. That on October 11, 2017, inspectors re-inspected the property and found that violations were corrected, and the License Holders were informed that a \$100 reinspection fee was due.
4. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist, to wit:

A. License Holders' failure to pay reinspection fee.

5. That all parties, including the owners of record and any occupants or tenants, have been given the appropriate notice of this hearing according to the provisions of the City Code Section 8.206(A) and 8.206(B).

ORDER OF COUNCIL

1. The rental license belonging to the License Holders described herein and identified by license number F16445 is hereby revoked;
2. The City will post for the purpose of preventing occupancy a copy of this order on the buildings covered by the license held by License Holdrs;
3. All tenants shall remove themselves from the premises within 45 days from the first day of posting of this Order, revoking the license as held by License Holders

RESOLUTION NO. 2017-108

A resolution of the City Council for the City of Columbia Heights, Minnesota, amending the 2017 budget to use certain additional revenue.

Whereas, the City has contracted for or received the following revenue:

<u>Source</u>	<u>Amount</u>
CH School District	\$ 3,900.00
CH School District	\$ 1,480.00
Anoka County re DTF	\$ 2,000.00
Anoka County re TZD	<u>\$ 3,252.34</u>
Total	\$12,649.34

Whereas, this revenue was not included in the initial 2017 budget adopted by resolution 2016-132, nor in any subsequent amendments to that budget; and

Whereas, accordingly, the expense necessary to earn this revenue was also not previously included in the 2017 budget; and

Whereas, the activity related to this revenue and expense is consistent with the goals and objectives of the City of Columbia Heights Police Department;

Now, therefore, in accordance with all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

ORDER OF COUNCIL

IT IS HEREBY RESOLVED, that the 2017 budget for general fund revenue and expense is amended for an increase of \$12,649.34.

Resolution No 2017-109

A resolution of the City Council for the City of Columbia Heights, Minnesota, adopting a Data Retention Schedule for the Columbia Heights Police Department

WHEREAS, to comply with the Records Management Statute MS 138.17, it is necessary to adopt a plan for managing governmental records including the proper retention and disposal of municipal records; and

WHEREAS, the Anoka County Joint Law Enforcement Council (JLEC) has requested that police agencies in Anoka County adopt a standard retention schedule for records held within the County's Public Safety Data System; and

WHEREAS, the Police Department's data retention schedule has been reviewed and updated to include the Anoka County JLEC retention schedule.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Columbia Heights, Minnesota adopts the attached Data Retention Schedule for Police Department records, and directs the City Clerk to notify the Minnesota Historical Society/State Archives Department.

BE IT FURTHER RESOLVED that following approval, the Police Department will be working in conjunction with Anoka County to provide for retention and destruction of records as set forth in said schedule.

Resolution No 2017-110

**A RESOLUTION APPROVING AN OFF-SITE GAMBLING PERMIT FOR
COLUMBIA HEIGHTS ATHLETIC BOOSTERS**

WHEREAS: The Columbia Heights Athletic Boosters have submitted a request for an off-site gambling permit for a raffle event on November 17, 2017, and

WHEREAS: the Columbia Heights Athletic Boosters have completed the required application, and

WHEREAS: the application requires approval by the local unit of government by Resolution.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Columbia Heights, to approve the Application to Conduct Off-Site Gambling submitted by the Columbia Heights Athletic Boosters, for a one day event on November 17, 2017.

RESOLUTION 2017-111

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Bart Mady (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4329 Main Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

FINDINGS OF FACT

1. That on October 18, 2017 the Fire Department responded to a complaint at the address listed above. Inspectors noted that the structure was damaged, open, and unsecured and rodent infested.
2. That on October 18, 2017 the Fire Chief ordered that Advanced Companies secure the structure.
3. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:

A. Approve the emergency abatement of the hazardous situation located at 4329 Main Street N.E.

CONCLUSIONS OF COUNCIL

1. That the property located at 4329 Main Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
2. That the emergency abatement of the hazardous situation located at 4329 Main Street N.E. is hereby approved.

ORDER OF COUNCIL

1. The property located at 4329 Main Street N.E. constitutes a nuisance pursuant to City Code.

Resolution No. 2017-112

A resolution of the City Council for the City of Columbia Heights, Minnesota,

Whereas, the City Council of Columbia Heights is proposing to rehabilitate select state aid streets in the city that have not been rehabilitated under the street program, and

Whereas, the City Council intends to assess the benefitted property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Section 429.011 to 429.111 (Laws 1953, Chapter 398, as amended), and Section 103B.201 to 103B.251, as follows:

1805 STATE AID STREET OVERLAY PROGRAM

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

That the proposed improvements be referred to Mr. Kevin Hansen, City Engineer, for study, and that he is instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvements are necessary, cost effective, and feasible and as to whether it should best be made as proposed or in connection with some other improvement, the estimated cost of the improvement as recommended and a description of the methodology used to calculate individual assessments for affected parcels.

RESOLUTION NO. 2017-113

A resolution of the City Council for the City of Columbia Heights, Minnesota,

Whereas, the City Council of Columbia Heights is proposing to rehabilitate and maintain local streets in Zone 2 under the Street Rehabilitation program, and

Whereas, the City Council intends to assess the benefitted property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Section 429.011 to 429.111 (Laws 1953, Chapter 398, as amended), and Section 103B.201 to 103B.251, as follows:

1701 ZONE 2 SEAL COAT

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

That the proposed improvements be referred to Mr. Kevin Hansen, City Engineer, for study, and that he is instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvements are necessary, cost effective, and feasible and as to whether it should best be made as proposed or in connection with some other improvement, the estimated cost of the improvement as recommended and a description of the methodology used to calculate individual assessments for affected parcels.

RESOLUTION 2017-114

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Bart Mady (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4329 Main Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

FINDINGS OF FACT

6. That on October 20, 2017 the Fire Department responded to a complaint at the address listed above. Inspectors noted that the structure was damaged, open, and unsecured and rodent infested.
7. That on October 20, 2017 the Fire Chief ordered that Advanced Companies secure the structure.
8. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:
9.
 - A. Approve the emergency abatement of the hazardous situation located at 4329 Main Street N.E.

CONCLUSIONS OF COUNCIL

3. That the property located at 4329 Main Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
4. That the emergency abatement of the hazardous situation located at 4329 Main Street N.E. is hereby approved.

ORDER OF COUNCIL

2. The property located at 4329 Main Street N.E. constitutes a nuisance pursuant to City Code.

**MINUTES OF
PLANNING AND ZONING COMMISSION
OCT 3, 2017
7:00 PM**

The meeting was called to order at 7:00 pm by Chair Szurek.

Commission Members present- Novitsky, Fiorendino, Hoium, Schill, and Szurek

Also present were Elizabeth Holmbeck (Planner), Shelley Hanson (Secretary), John Murzyn (Council Liaison), and Jim Hoefl (City Attorney).

Motion by Fiorendino, seconded by Hoium, to approve the minutes from the meeting of Sept 6th, 2017. All ayes. MOTION PASSED.

PUBLIC HEARINGS

CASE NUMBER: 2017-0901
APPLICANT: Owen Metz, Dominion Development & Acquisitions LLC
LOCATION: 1069 Grandview Way and 4729 Grand Avenue
REQUEST: Amended Site Plan with a Waiver to the Zoning Code

Holmbeck reminded members that Dominion has made a request for Site Plan Review with a waiver to a certain standard of the Zoning Code, to the City of Columbia Heights, for the properties located at 1069 Grandview Way and 4729 Grand Avenue (Subject Properties). The applicant is requesting approval of the proposed Site Plan in order to allow for two apartment homes to be constructed on the subject properties. The applicant first came before the Planning and Zoning Commission in September with their application which included waivers to the density requirements, parking requirements, and drive aisle width. At the meeting the Planning and Zoning Commission voted to table the application requesting that the applicant modify the plan to decrease the proposed density and provide an increased ration for underground parking. The minutes from the previous meeting were included in the packet for reference.

The applicant has amended the proposed site plan by reducing the density and ratio of surface parking. The current proposal is for 148 apartment units divided between two buildings, with (one) three story building containing 60 units, and (one) four story building with 88 units. The new proposal is 25 units less than the original 173 unit proposal. The applicant has amended the proposed parking plan. The proposal now calls for 134 parking stalls underground divided between the two buildings, and 88 surface parking stalls. The new proposal has 47 less surface parking stalls than the original proposal which had 135 surface parking stalls. The applicant is still requesting a waiver to the parking lot drive aisles width, which is required to be 24 ft. wide. The proposal calls for the drive aisles to be 20 ft. wide.

In regards to the current density and parking requirements, the original proposal exceeds the maximum density and surface parking generally allowed. However, the amended proposal is within the parameters established in the City Ordinance which states:

- 9.112 MIXED-USE DEVELOPMENT DISTRICT. (E) (2) The maximum non-residential density is 6.0 FAR and the maximum residential density is 20 units/acre. Maximum densities may be increased by up to 50% at the sole discretion of the City Council if one of more of the following are provided:
- (a) At least 50% of the required parking is provided by underground parking or parking in ramps;
 - (b) Housing is provided above ground floor retail/service commercial and the total floor area of the housing is at least twice the floor area of the retail/service commercial use;

(c) Office space is provided above ground floor retail/service commercial and the total floor area of the office space is at least twice the floor area of the retail/service commercial use;

(d) At least 50% of the building ground coverage is concentrated in structures four or more stories in height, thereby conserving open space within the mixed-use development area.

9.112 MIXED-USE DEVELOPMENT DISTRICT. (E) (5) Cumulative parking requirements may be reduced by up to 30% of required spaces at the sole discretion of the Council if one or more of the following are provided:

- (a) Joint or shared parking arrangements between uses;
- (b) Proof of parking;
- (c) Car/van pooling and/or provision of employee or resident transit passes;
- (d) Superior pedestrian, bicycle and/or transit access.

As outlined in the City's Zoning Code, the City Council has some discretion when reviewing development proposals located in a Mixed Use Zoning District, and provided certain conditions are met, the densities can be increased and the parking requirement can be reduced. The applicant has made the argument in the attached narrative, that they meet at least one of the required findings above for both the density increase of 50 % and the parking decrease of 30%. It appears that the amended application meets the following findings:

9.112 (E) (2) (d) At least 50% of the building ground coverage is concentrated in structures four or more stories in height, thereby conserving open space within the mixed-use development area, and (a) that at least 50% of required parking is provided underground.

9.112 (E) (5) (d) Superior pedestrian, bicycle and/or transit access.

ZONING ORDINANCE

The subject property is located in the Mixed Use Zoning District. The properties to the north and west are located in the Mixed Use Zoning District and the General Business Zoning District. The properties to the south are located in the R-3 Multiple Family Residential Zoning District and the properties to the east are located in the R-2B Built as Duplexes Zoning District.

The proposed residential development is a permitted use in the Mixed Use District. The purpose of the Mixed Use Development District is to promote efficient use of existing city infrastructure; ensure sensitivity to surrounding neighborhoods; create linkages between compatible areas of the city; provide appropriate transitions between uses; ensure high quality design and architecture; create good pedestrian circulation and safety; promote alternative modes of transportation; and increase the quality of life and community image of Columbia Heights. The intent of this district is to encourage a flexible high-quality design strategy for development and/or redevelopment of specific areas within the community.

The Zoning Ordinance specifically identifies the subject property to be used for Transit Oriented Mixed Use Development. The purpose of the Transit-Oriented Mixed Use is to promote development and redevelopment that facilitates linkages and interaction of transit services, housing and neighborhood services. The focus of land use within this district is to ensure a pedestrian friendly environment and pedestrian connections to and from residential development and transit facilities.

The applicant is currently in the final phases of a Transit Oriented Development (TOD) funding request to Metropolitan Council. Also, the proposal shows sidewalks throughout the site which will provide connections to nearby streets and transit shelters as well as adjacent commercial and residential areas. The site will have crosswalks, and signage which will encourage pedestrian activity and provide a safe environment for residents.

COMPREHENSIVE PLAN

The Comprehensive Plan guides this area for Transit Oriented Development. It appears that the proposal for apartment homes, meets the intent of the Comprehensive Plan. The proposal for additional housing on a high frequency transit service route along the Central Avenue corridor, meets the City's goal to encourage more trips via non-motorized modes of travel (pedestrian, biking etc.) and less by automobile. Additionally, the proposal meets the City's goal to incorporate housing in Mixed Use Developments that is affordable at 60% of the area median income, specifically targeting higher density developments that provide workforce housing.

DESIGN GUIDELINES

The subject property is located within the Design Guideline Overlay District, and is governed by the "Highway District" standards within the Design Guidelines. The intent of the Design Guidelines is to make the City more aesthetically appealing, by requiring a set of minimum standards for new construction along Central Avenue and 40th Avenue. In general, the proposed buildings meet the design guidelines. The following components are requirements of the Design Guidelines Highway District and how the applicant has attempted to meet the guidelines:

- Buildings may be set back a maximum of 85 feet from the sidewalk, in order to allow for two rows of parking and drive aisles plus landscaped frontage.

The proposed building will be located approximately 14 feet from the sidewalk along Grand Avenue meeting this guideline.

- The primary facade(s) of buildings of 40 feet or more in width should be articulated into smaller increments through the techniques such as using of different textures or contrasting, but compatible, materials; dividing storefronts with separate display windows and entrances or incorporating arcades, awnings, window bays, balconies or similar ornamental features.

The proposed building shows the façade articulated into smaller increments with varying colors and materials meeting this guideline.

- Building height shall be a minimum of 22 feet.

The proposed buildings will be 47.4 feet tall (four story building), and 36 feet tall (three story building), meeting this guideline.

- Where commercial or office uses are found on the ground floor, at least 20 percent of the ground floor facade fronting Central Avenue and 15 percent of any two side or rear facades shall consist of window and door openings.

The proposed plan does not include commercial or office space on the ground floor.

- The building should have a well-defined front facade with primary entrances facing the street.

The proposed building will have a well-defined front façade, with the primary entrance facing the private roads.

- Building colors should accent, blend with, or complement surroundings.

The colors that are proposed are neutral, and should complement the surrounding area. The building was designed to be architecturally similar to the adjacent condominium building.

- No more than two principal colors may be used on a façade or individual storefront. Bright or primary colors should be used only as accents, occupying a maximum of 15 percent of building facades, except when used in a mural or other public art.

The proposed building will consist of neutral colors, grey, charcoal, and beige, with a red like mortar (primary color) brick. The design is consistent with existing adjacent development.

- All buildings should be constructed of high-quality materials, including the following: Brick, Natural Stone, Stucco Precast concrete units and concrete block, provided that surfaces are molded, serrated or treated with a textured material in order to give the wall surface a three dimensional character. Jumbo brick may be used on up to 30 percent of any façade, provided that it is used only on the lower third of the building wall.

The proposal meets this guideline. The building will be constructed with mortar brick, fiber cement lap siding, flush metal panels surrounding the windows, and a rock face block base.

- Architectural details such as ornamental cornices, arched windows and warm-toned brick with bands of contrasting color are encouraged in new construction.

The proposal generally meets the intent of this guideline.

- Parking areas adjacent to public streets or sidewalks shall be screened with a combination of landscape material and decorative fencing or walls sufficient to screen parked cars on a year-round basis while providing adequate visibility for pedestrians.

The proposed landscape plan includes a variety of trees and shrubs to be planted around the perimeter of the site, which should provide adequate screening.

SITE PLAN

The Site Plan was included in the agenda packet and was available for review to the public.

FINDINGS OF FACT

Section 9.104 (N) of the Zoning Ordinance outlines four findings of fact that must be met in order for the City to approve a Site Plan. They are as follows:

a. The Site Plan conforms to all applicable requirements of this article.

The amended site plan does not meet one of the applicable requirements of the Zoning Code, as the proposal shows a 20' wide drive aisle rather than a 24' drive as required. The Fire Department believes this width will suffice for emergency vehicles, providing that the road along the east side of the building going north and south is connected to Grandview Way N. In an effort to reduce hard surface on the site, staff supports the drive aisle width reduction.

b. The Site Plan is consistent with the applicable provisions of the City's Comprehensive Plan. *Staff believes the proposed Site Plan for the property is consistent with the intent of the Comprehensive Plan. The proposal for additional housing on a high frequency transit service route along the Central Avenue corridor, meets the City's goal to encourage more trips via non-motorized modes of travel (pedestrian, biking etc.) and less by automobile. Additionally, the proposal meets the City's goal to incorporate housing in Mixed Use Developments that is affordable at 60% of the area median income, specifically targeting higher density developments that provide workforce housing.*

c. The Site Plan is consistent with any applicable area plan. *There is no area plan for this parcel.*

d. The Site Plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way. *The amended plan is within the parameters of the City's Ordinance, should the City Council grant the increase in density and decrease in parking. The Fire Department has stated that the 20 ft. drive aisle will suffice for emergency vehicles. Therefore, it appears that the amended plan minimizes any adverse impacts on property in the immediate vicinity and public right-of-way.*

CONCLUSION

Holmbeck explained that if the City Council were to grant the exception it would mean that the proposed development could have 30 units per acre. Parking requirements are determined by the number of bedrooms per unit and based on the proposed unit count (61) one bedroom, (45) two bedroom, and (42) three bedroom, the proposal would be required to have 164 enclosed parking stalls. The amended plan has 222 parking stalls total divided between surface (88 parking stalls) and underground (134 parking stalls). The applicant has stated that due to easement constraints on the property, it cannot expand the underground parking, and has instead chosen to reduce the surface parking stalls which reduces the visual impact and increases green space.

In addition, the applicant has added pedestrian and bicyclist amenities to the amended site plan and argues that the development is designed to encourage pedestrian and bicycle use. There will be enclosed bike parking included in every parking stall as well as at the entrance to each parking garage, and bike racks on the exterior of each building. Also, each parking garage will have a bike repair stand with basic tools for repairing bicycles. Finally, the buildings will contain amenities such as clubrooms, a fitness facility, outdoor play areas, grilling stations, and a dog run. With the reduction of the surface parking, and increased pedestrian and bicyclist's amenities, allowing for the added 30 surface parking rather than underground parking appears to be a reasonable request.

In regards to the remaining waiver request for the 20 ft. drive aisle, according to the City's Fire Chief, the minimum drive aisle is 20 ft. by the Fire Code. The Fire Department believes that the 20 ft. drive aisle will be sufficient, providing the road that runs north and south on the east side of the development is connected for emergency vehicles. Certain neighbors have expressed concern over the increase in traffic driving through the private roads to the north. The proposal now includes a discrete road connecting to Grandview Way N., which will be landscaped and have a break away chain, to allow for emergency access only. Holmbeck said the Fire Chief may require this to be paved instead of landscaped, and the developer has stated they will do whatever is required by the Chief.

Staff recommends that the Planning and Zoning Commission recommend approval of the proposed development for the properties located at 1069 Grandview Way and 4729 Grand Avenue subject to certain conditions of approval:

1. Stop signs will be added at the development driveway exit(s).
2. The attached Landscape Plan indicates a number of landscaping improvements to the site. All landscaping indicated on the submitted landscape plan dated September 29th, 2017, will be installed no later than 4 months after the buildings are operational, or from such time a Certificate of Occupancy is issued.
3. The monument sign at the corner of 47th Avenue and Grand Avenue, along with the proposed sculpture, will require a sign permit and be approved by the City's Communication Committee. The monument sign and the sculpture must be installed no later than 4 months after the buildings are operational, or from such time a Certificate of Occupancy is issued.
4. The building and site shall meet all requirements found in the Fire Code and the Building Code.
5. The applicant will meet the requirements outlined in the attached Review Form from the Fire Chief.
6. The applicant will meet the requirements outlined in the attached Review Form and memo dated August 30th, 2017, from the Director of Public Works/City Engineer.
7. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
8. Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.
9. All exterior lighting shall be downcast so as not to adversely impact neighboring residential properties. The applicant must submit a detailed lighting plan for review by the Building Official, prior to construction.
10. All City Storm Water Management requirements, as well as Mississippi Water Management Organization (MWMO) plan requirements, shall be achieved for this property.
11. The applicant will provide space for snow removal on its own property.
12. The applicant will enter in to a Development Agreement with the City of Columbia Heights, which will govern construction methods and timing, as well as the establishment of public and quasi-public infrastructure. The Development Agreement must be approved by the City of Columbia Heights before construction can commence.
13. Access on the easternmost north/south private drive shall be restricted to emergency vehicles only.
14. Site and elevation plans included in this submittal, dated September 29th, 2017 shall become part of this approval.
15. All other applicable local, state, and federal requirements shall be met at all times.

Questions from Members:

Fiorendino clarified the process of the request before them. He stated that the Commission must determine whether this meets our Zoning Code and Comprehensive Plan requirements. Then the Commission makes a recommendation based on that to the City Council who ultimately makes the decision on whether to approve the proposed Site Plan.

Hoiium questioned how the number of parking spaces was determined and why they reduced parking even more since that was one of the issues discussed at last month's meeting. Holmbeck stated that they still exceed the number of parking spaces required (134 stalls underground and 88 surface spaces, totaling 222 parking spaces). The code requires that at least 50% of the spaces be provided underground and this plan meets that requirement. The amended plan reduced the number of surface parking in order to meet the ratio and was accomplished by reducing the plan by 25 units. Owen Metz from Dominion stated that this is a Transit Oriented Site and based on other projects they have, they feel this is more than adequate. Tenants they draw use a combination of cars, public transportation, bikes, and walking to get around. They tend to have fewer cars per unit than suburbia homeowners due to income levels and lifestyle choices. The amended plan also provides wall mounted bike racks in the underground parking garage, as well as bike racks in various places for residents to use, which also encourages alternative means of transportation.

Fiorendino asked if the Fire Chief had approved the 20 foot drive aisles. Holmbeck stated that he had approved that width, as it is used throughout the existing development there now, but that he would require the developer to pave the access road on the east side instead of the landscaped discrete road mentioned in the plan.

Novitsky questioned how the density ratio was determined. Holmbeck said that was detailed in the narrative provided by the developer and that if Novitsky had further questions they should be directed to the applicant.

Public Hearing Opened:

Owen Metz from Dominion was present to answer more questions.

Schill noted that Dominion held several meetings with neighbors of this proposed development, and he asked Metz how many of the changes were made to meet the code and how many were to accommodate the neighbors. Metz stated they made changes for both reasons. They would have liked to have had more density, but adjusted the number of units to meet the code requirements.

Hoiium asked why they reduced the number of parking spaces. Metz stated that they reduced the number of units and therefore could also reduce the number of required parking spaces. This enabled them to add more green space for the project. By providing 222 parking spaces they have exceeded the requirement, and have also exceeded what they normally plan for this sized development by 15 spaces. Metz stated they do require residents to have permits (stickers) to use the surface parking spaces.

Szurek asked if the parking ratio was similar to other projects they own. Metz stated they are "over providing" parking compared to other projects so they are very comfortable with the numbers. Szurek asked if residents would be charged more for the underground spaces and he said they would be, but they are generally taken by the residents. She asked how many other projects they have where this ratio has worked. He told them of three others in the metro area that are very similar. He said they are basing it on the highest need possible and that he thinks the demand will actually go down over time due to lifestyle changes and transportation trends.

Fiorendino asked Metz about the road modification that the Fire Chief wants in relation to the access road to the east. Metz said they will do whatever is required by the Fire Chief. If he wants a paved road rather than a landscaped access with a break away chain, they will accommodate that. Who will be responsible for plowing the roads including keeping the access road open. Metz said Dominion would be the responsible party.

Hoiium asked if the Police Dept is ok with this plan and the access on site. Holmbeck stated that the Building Official, Fire Chief, Public Works, and Community Development staff are the ones who review plans. The Police Dept. is not typically included in the process.

Szurek asked if there is room for snow storage on site. Metz said there should be enough green space to handle the snow, but if needed they will haul off site.

Metz thanked staff and the Commission for their comments to guide the revisions to their plan. He briefly reviewed and compared the new plan to the original site plan from 2004. Basically it amounts to 1 more unit/acre than the original plan.

Residents now got up and spoke. Metz responded to these comments later in the meeting.

Tom Kurak, 1070 Grandview #406 said the 15 acres mentioned in the site plan included the commercial piece and they are adding more than 15 units from the original condo plan. The condo building provided one underground parking space per BR, why can't they. He doesn't want the Commission to grant any variances from what was originally planned which was two more condo buildings that would have a master HOA to provide amenities to the entire development. He said the HOA found a developer that has offered to buy the site from Dominion to build condo buildings now, so Dominion will not lose anything.

Warren Danger, 1070 Grandview #112 noted there was 30% less parking in the amended plan and the requirement to pay for underground parking will cause more people to use the surface parking. He is concerned about where they will put snow. The condo owners pay to have snow removed. He wants to know if the condo owners will be responsible for street maintenance and snow removal costs or if the apartments will share in those expenses. He said this issue has not been addressed in any of the discussions. Danger was also concerned with increased traffic on Grand Avenue between 47th and 49th Ave and that it is extremely busy in the morning and evening rush hour, and with the addition of two more buildings, this will increase.

John Bush, 1070 Grandview #203, said he understands times change. He questioned whether the density was figured on buildable acreage or total acreage. He didn't feel the retaining wall and roads should be included in the base size. He thought additional parking should be provided for guests and should be based on the highest possible time of need such as Holidays, etc. He believes with Minnesota winters more people will have cars and require parking then Dominion thinks. He asked if non-residents would be able to rent underground garage space. Bush said it seems the residents are fighting their own city where they pay their taxes to and that they don't really have any voice.

Roger Johnson, 1070 Grandview, wanted to know if the Fire Chief thinks he can get his trucks through the development if there is snow piled up.

Elizabeth Herrmann, 950 39th Ave #6, welcomes the proposal. The site has been vacant for 14 years. She is now a renter and is a huge advocate of public transportation. She said the site has good bus service within one block. She said she thinks the condo neighbors are just used to not having neighbors. The waivers for the road width are the same as they presently have for the rest of the existing development, so that shouldn't be an issue. Herrmann went on to say that it's true that this proposal does add density, but so would two condo buildings, and with that, they would face the same parking and traffic concerns. And, the condo residents shouldn't be so quick to judge having rental nearby, when many of the units in the condo building are being rented out.

Dennis Shelstad, 1070 Grandview, there's only one way in or out of development and by adding more units, traffic will be worse. Because of surface parking now, only one lane of traffic can maneuver the streets as it is. He said the Condo HOA has to pay all the expenses now and owners were hoping that new condo building owners would eventually help contribute to maintaining the development. Many of the condo owners invested there based on that promise, so he would like to see the Commission reject the proposal.

Tom Kurak, #406, told members that extra parking for guests of the condo building is handled by using the Community Center parking lot. He would rather have two new condo buildings added so they could share the expenses of the Community Center and maintenance as stated above by others who have spoken. Tom Kurak said that the current owner Dave Klober sold to who he could get the most money from. He asked the Commission to deny the application and to let the HOA find a developer who will build condo buildings.

Tony Bodway, 1070 Grandview #318 asked the Commission not to grant the variances. He said rules are in place for a reason. He stated the Condo building has adequate underground parking, but when they clean the garage there is not enough surface parking and this will make it more difficult. He noted that if sticker/permits are required to park around the apartment buildings, then guests will use the condo surface parking because they won't have a sticker. He told members that whatever is built they should stick to the original number of units and underground parking according to the original plan that was approved.

Brenda Ziemet, 4225 6th St. loves Columbia Heights. She said Millennials are finding it attractive. She believes public transportation is becoming more popular and more "green". She said the City needs to look at what we are becoming, and not hold on to the past and what was. She said they shouldn't vote no, out of fear of change. It should be embraced.

Mary Granlund, 949 44th Ave is aware of traffic problems on 49th Avenue. She said the City, County, and School District are working together on this. She is a social worker and works with people who would love an upscale apartment like this. People her age want this type of housing. This is a needed product for people who work, still don't make enough money to come up with a down payment for a house due to student loans, or have decided they don't want to own and maintain a home of their own. They want to be a part of a community, even if it is as renter. For many it is a lifestyle choice.

Commission members sought clarification from the Planner and City Attorney on the reference to the term "variance" being used by many of those who spoke thus far. Szurek asked if the width of the roads was the only waiver/variance the Commission was to consider. She was under the impression that all other requirements have been met. Holmbeck said the only waiver being considered is the width of the drive aisles. The other two waivers have been met after reductions were made according to the Zoning Code language. City Attorney Hoeft clarified that no variances were being requested at this time. The waiver for the road width can only be approved by the City Council based on the recommendation of the Planning & Zoning Commission. The Planning & Zoning Commission bases their decision on the review and approval from City Staff, and in this case, the Fire Chief has approved the width. He reiterated that the density and parking issues are not under consideration by this Board as they meet the parameters of our code.

Kathy Ahlers, 4010 Hayes St, asked if staff had any data on how many young people would prefer ownership of a condo unit versus renting an apartment. She said maybe it's possible that they would rather build equity in a condo than to pay rent. She said the ones benefitting in these projects are the developers who obtain tax credits so they can get financial assistance in building these low to moderate income projects. Then they get to manage them for years and reap the profits as the properties then continue to increase in value. She thought this issue should be studied and that the City shouldn't rush into this necessarily.

Pat Kennedy, 1070 Grandview, #409, recently moved into her condo unit. She was under the impression that Columbia Heights had more rental than they wished and that it was having a problem getting residents to actually invest in their own home. She said she is against the project for this reason. Kennedy said people can't live without a car in Minnesota. Public transportation is ok depending on where you are going. She told members that if underground parking is a requirement of the city code that people shouldn't have to pay extra for that space.

John Bush, #203, said if the City is looking for more affordable housing, then they should hold out for the condo buildings. He said it is more affordable to own a condo unit than to rent one of the proposed apartments.

Szurek stated that the City has not seen any plans from any developer wanting to build condo buildings on this site since the original one went up in 2004. She went on to say that some people prefer to rent these days rather than being a homeowner and that the City of Columbia Heights lacks any newer, more modern apartment options. Szurek said that all she can do is decide if the requirements of the Zoning Code and Comprehensive Plan are met. She said the recommendation will be sent to the City Council for consideration at the meeting October 9, 2017.

Owen Metz responded to some of the statements made.

- *They will do a traffic study to ensure traffic is able to flow within the development.
- *He reiterated that this is only 15 more units than originally approved in 2004.
- *There is a balance of surface and underground parking that meet code.
- *This development is close to schools and bussing will not be required.
- *Majority of those opposed to this are the condo owners. And traffic and parking would be similar whether it is condo buildings or apartment buildings.
- *Dominium has not received an offer to purchase this site. No one has contacted them as stated.
- *The building will be fully sprinkled and fire trucks will be able to access both buildings.
- *They have addressed parking, guest parking, surface parking and are providing more than the condo buildings.
- *They cannot expand the underground parking spaces due to easement restrictions and building placement due to the easements in place.
- *There is a bus stop 200 feet out the front of the site.
- *The apartment units are larger than other market rate apartments in the metro area.
- *This site was released by the association and no matter what is built, they do not have to belong to the existing HOA.
- *Workforce housing is needed throughout the metro area. Rents are not raised based on wages, but on the average income of the area.
- *This plan meets the Comprehensive Plan and is very similar to the original plan from 14 years ago.
- *Dominium said they are willing to work with the HOA and share expenses for roads and retaining wall contrary to what has been said by Board members.
- *Underground garage spaces are generally taken by renters and make the apartments more marketable. If a huge excess of spaces were available, Metz said they possibly could be rented out legally to non-residents, but it is highly unlikely.

Motion by Fiorendino, seconded by Hoiium to waive the reading of Resolution 2017-0109 there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Fiorendino, seconded by Schill, to recommend approval of the proposed Site Plan for the properties located at 1069 Grandview Way and 4729 Grand Avenue subject to the following conditions:

- 1. Stop signs will be added at the development driveway exit(s).*
- 2. The attached Landscape Plan indicates a number of landscaping improvements to the site. All landscaping indicated on the submitted landscape plan dated September 29th, 2017, will be installed no later than 4 months after the buildings are operational, or from such time a Certificate of Occupancy is issued.*
- 3. The monument sign at the corner of 47th Avenue and Grand Avenue, along with the proposed sculpture, will require a sign permit and be approved by the City's Communication Committee. The monument sign and the sculpture must be installed no later than 4 months after the buildings are operational, or from such time a Certificate of Occupancy is issued.*
- 4. The building and site shall meet all requirements found in the Fire Code and the Building Code.*
- 5. The applicant will meet the requirements outlined in the attached Review Form from the Fire Chief.*
- 6. The applicant will meet the requirements outlined in the attached Review Form and memo dated August 30th, 2017, from the Director of Public Works/City Engineer.*
- 7. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.*
- 8. Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.*
- 9. All exterior lighting shall be downcast so as not to adversely impact neighboring residential properties. The applicant must submit a detailed lighting plan for review by the Building Official, prior to construction.*
- 10. All City Storm Water Management requirements, as well as Mississippi Water Management Organization (MWMO) plan requirements, shall be achieved for this property.*
- 11. The applicant will provide space for snow removal on its own property.*
- 12. The applicant will enter in to a Development Agreement with the City of Columbia Heights, which will govern construction methods and timing, as well as the establishment of public and quasi-public infrastructure. The Development Agreement must be approved by the City of Columbia Heights before construction can commence.*
- 13. Access on the easternmost north/south private drive shall be restricted to emergency vehicles only.*
- 14. Site and elevation plans included in this submittal, dated September 29th, 2017 shall become part of this approval.*
- 15. All other applicable local, state, and federal requirements shall be met at all times.*

Roll Call: All ayes. MOTION PASSED.

This will go to the City Council at the meeting of October 9, 2017.

OTHER BUSINESS

There was no other new business.

The meeting was adjourned at 9:05 pm.

Respectfully submitted,

Shelley Hanson
Secretary



The meeting was called to order in the History Room by Chair, Patricia Sowada, at 5:32pm. Members present: Patricia Sowada, Nancy Hoium, Catherine Vesley, Stephen Smith, Tricia Conway; and Council Liaison, Robert “Bobby” Williams. Also present: Library Director, Renee Dougherty; Recording Secretary, Nick Olberding.

- The **Minutes** of the **September 6th**, 2017 Board Meeting were **approved**.
- The **Bill List** dated **September 6th, 2017** was reviewed. It was moved, seconded, and **passed** that the bills be paid.
- The **Bill List** dated **September 20th, 2017** was reviewed. It was moved, seconded, and **passed** that the bills be paid.
- The **Accounting Sheet** as of **September** was reviewed, and **approved**.
- Questions and discussions from Bills and Accounting:
 - **Severence**: Not budgeted, because we don’t anticipate anyone leaving. There was an expenditure here because of Barb Kondrick’s retirement; the payout for unused vacation time.
 - **Earbuds**: Why? The library purchases headphones for resale. On library workstations, you can only hear audio with an earpiece; patrons have the option to purchase earbuds for \$5, or bring their own headphones with them.
 - **Marco**: Services and supplies for our copiers/printers. The library is the only department on this contract so far, so we receive the bills directly; due to the high volume of printing, we are charged overage fees (this wasn’t as noticeable in the previous contract involving all departments, because low volume departments would make up for high volume ones). The current contract lasts for 5 years.
 - **E-Books**: The usage of these are difficult to estimate. Anoka County Library shares their E-Book services with us and we pay for a percentage based on our patron’s usage. The overspending here will be compensated by underspending in the print books budget.

Old Business: N/A

New Business:

- **2018 Proposed Budget**: The library, along with other departments, presented their proposed budgets to the City Council this week. The budget for the library includes an 8% increase mostly due to pay increases posed by AFSCME and increases for part-time employees to bring wages in line with local market rates. The Council will not finalize budgets until December. The city’s Maintenance of Effort has remained level since 2011. The Library Board had no concerns over the aspects of the 2018 proposed budget, and were thankful for the Budget Booklet they received.
- **Library Public Art Committee**: Mainly the membership aspect was discussed. There are currently some interested parties, including Gary Peterson (former mayor, and supporter of public art), Paul (library architect), and Kathy Super (Friend of the Library).
 - There was debate on how “open” to make membership enrollment for the committee. Historically application process for such committees have not been widely advertised, but there is also the need for transparency in this day and age. Catherine showed concern that opening completely up to the public would leave it vulnerable; as possible applicants may try to use the committee for personal gain/notoriety (which she has seen before). The original framework (which used 6 other local art committee guidelines as

reference) stipulated that the committee should include representation from the Library Staff, Library Foundation, Library Board, Friends of the Library, and the community.

- We would like to have members that actually have an interest and a stake in the CHPL, and would have its best interests in mind.
- We also need members who would pledge to actively participate (meetings would be held as needed and would likely not exceed once-per-quarter).

It was decided that we need a formal application process, which will coincide with the library's first exhibition (kicking off on November 3rd). Tricia is going to write up the application based on templates the city uses for Commissions, and will present it at the November Board Meeting. We anticipate accepting applications from November 4th through December 5th (to be reviewed at the December 6th Board Meeting). Notices for the Committee will be posted at the exhibition and the teen area art display in the library during the application period.

- **October Programs:** Renee Dougherty wanted to emphasize all the programs going on now that the fall session has started. The current Read-Down, Meditation Workshop, Adult Book Club, Senior Surf, Conversation Circles, Scrabble Club, and many children's events. She wanted the Board to be aware of all these because they are ambassadors for the library, and can only promote events if they know what they are...

Items from the Floor:

- **Youth Read Down for 2018:** Bri would like the schedule for Read-Down in 2018 to be the months of January, June, July, and October. She asked that this be approved by the Board. The approval was motioned, and seconded...**approved.**
- **Spaghetti Dinner:** Raised around \$1,700, and was attended by 175+ people. Attendance was not as high as anticipated, but it was considered a successful event.
- **Friends:** The future of the Friends is uncertain. Over the years members have aged out, and recruiting new members has not been successful. Also, current members have not been interested in taking on hierarchical positions, and the function of the Library Foundation diminishes the need for an organized Friends group. On the plus-side, the Friends have been very active in volunteering on a regular basis and helping out the library whenever they can (in essence, this is what the purpose of the Friends, and will continue to be so).
- **LED Light Fixtures:** Ceiling lights are consistently dying out. The electricians/manufacturers are on the hook for replacing them for now, as they are still under warranty. They would like to have an energy audit done to see if we're having a irregular power surges, because there shouldn't be this many lights burning out.
- **Community Room A/V:** Components for the system are being sent out for troubleshooting/repair, and will be returned within one week. Currently audio only works from one source at a time; either microphone or sound from a video/slideshow...not both at once. Should be fixed by next week.
- **Items to consider for November Meeting:** CHPL 90th Anniversary, Future of the Library Strategic Plan, and Building Disaster Recovery priorities and strategies.

There being no further business, the meeting was adjourned at 6:24pm by Patricia Sowada, and seconded.

Respectfully submitted,



Nicholas P. Olberding
Recording Secretary, Library Board of Trustees

The City of Columbia Heights does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its services, programs, or activities. Upon request, accommodation will be provided to allow individuals with disabilities to participate in all City of Columbia Heights services, programs, and activities.

**ECONOMIC DEVELOPMENT AUTHORITY (EDA)
MINUTES OF THE MEETING OF
OCTOBER 9, 2017**

The meeting was called to order at 6:30 pm by President Marlaine Szurek.

Members Present: Murzyn, Herringer, Schmitt, Williams, Novitsky, Buesgens, and Szurek

Staff Present: Walt Fehst, Keith Dahl, and Joseph Hogeboom

PLEDGE OF ALLEGIANCE- RECITED

CONSENT AGENDA

1. Approve minutes of September 5, 2017
2. Approve Financial Report and Payment of Bills for August, 2017 – Resolution 2017-29

Questions from members:

There was no further discussion of this item.

*Motion by Buesgens, seconded by Murzyn, to approve the Minutes of September 5, 2017, and the Financial Report and Payment of Bills for August, 2017 as presented. All ayes.
MOTION PASSED.*

RESOLUTION NO. 2017-29

A Resolution of the Economic Development Authority of Columbia Heights, Minnesota, Approving the Financial Statements for Month of August 2017 and the Payment of the Bills for the Month of August, 2017.

WHEREAS, the Columbia Heights Economic Development Authority (EDA) is required by Minnesota Statutes Section 469.096, Subd. 9, to prepare a detailed financial statement which shows all receipts and disbursements, their nature, the money on hand, the purposes to which the money on hand is to be applied, the EDA's credits and assets and its outstanding liabilities; and

WHEREAS, said Statute also requires the EDA to examine the statement and treasurer's vouchers or bills and if correct, to approve them by resolution and enter the resolution in its records; and

WHEREAS, the financial statement for the month of August 2017 has been reviewed by the EDA Commission; and

WHEREAS, the EDA has examined the financial statements and finds them to be acceptable as to both form and accuracy; and

WHEREAS, the EDA Commission has other means to verify the intent of Section 469.096, Subd. 9, including but not limited to Comprehensive Annual Financial Reports, Annual City approved Budgets, Audits and similar documentation; and

WHEREAS, financials statements are held by the City’s Finance Department in a method outlined by the State of Minnesota’s Records Retention Schedule,

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Columbia Heights Economic Development Authority that it has examined the referenced financial statements including the check history, and they are found to be correct, as to form and content; and

BE IT FURTHER RESOLVED the financial statements are acknowledged and received and the check history as presented in writing is approved for payment out of proper funds; and

BE IT FURTHER RESOLVED this resolution is made a part of the permanent records of the Columbia Heights Economic Development Authority.

ORDER OF ECONOMIC DEVELOPMENT

AUTHORITY

Passed this 9th day of October, 2017

Offered by: Buesgens
Seconded by: Murzyn
Roll Call: All ayes

BUSINESS ITEMS

1. Single Family Home Program-Approve concept application for 4641 Polk St NE

Dahl explained that the Columbia Heights Economic Development Authority (the “EDA”) has received two (2) concept applications from two (2) separate home builders licensed by the State of Minnesota for the construction of a single family home on the property located at 4641 Polk Street NE (the “Subject Property”) within the Heritage Heights Neighborhood. The Subject Property is part of the Single Family Home Lot Sales Program (the “Program”), which was established in 2015 to stabilize and increase property values throughout the City of Columbia Heights (the “City”), but more specifically within the Heritage Heights Neighborhood. Lot prices for every property within the Program are based upon the most recent Estimated Market Land Value assessed by Anoka County. However, the EDA has reserved the right to review and adjust lot prices periodically provided that sufficient evidence supports the price reduction of the lot.

Dahl said the Subject Property was assessed by Anoka County to have a 2018 estimated market land value of \$56,300. However, after staff reached out to various local real estate agents, it was determined that the market value of the Subject Property still remains lower than the estimated market land value, but it has drastically increased since the construction of several new single family homes in the Heritage Heights Neighborhood. Therefore, staff estimates that the Subject Property would have a market value between \$4.00 to \$4.50 per square foot or approximately \$29,620 to \$33,320 based on the square footage of the lot.

Staff has evaluated both concept applications attached hereto based on the proposed purchase price and the compliance to the development standards in the guidelines of the Program. Both concept applications meet the development standards, as well as incorporate unique features that go above and beyond the minimum requirements. However, based on the market value of the Subject Property, Home Detail offered \$35,000 for the Subject Property, whereas Tollberg Homes offered \$27,500. Therefore, staff deemed it necessary for the EDA commissioners to review both concept applications since several variables are under consideration, and the EDA retains absolute authority to decide whether or not to accept any particular proposal.

STAFF RECOMMENDATION:

Staff recommends approval of the concept application submitted by Home Detail as presented.

Questions by members:

The Commission discussed both the property at 4201 Jefferson Street NE, as well as the property at 4641 Polk Street NE during this period.

Executive Director Fehst expressed the proposal presented by Tollberg Homes featured more decorative stone and other design features on the front-facing facades. Fehst questioned whether or not two-level homes would stand out along Jefferson Street. Commissioner Murzyn and Chair Szurek agreed that the proposed elevation may be out of scale with neighboring homes.

Jeffrey Magdik, President of My Home Detail, stated that the design concepts could be refined prior to final approval. Mr. Magdik stated that the existing homes in Columbia Heights that have been built by My Home Detail use front porches as a way to provide visual articulation on front-facing facades, but that he is open to other alternatives. Magdik further stated that he has secured potential buyers for both properties.

Commissioner Schmitt expressed that split-level homes, as presented in concept by Tollberg Homes, have accessibility issues and that her preference would be to see more traditional one- or two-level homes constructed.

Commissioner Herringer asked whether or not both lots have to be sold to the same builder, or if they could be sold to separate builders. Secretary Dahl stated that either option is possible.

Motion by Schmitt, seconded by Novitsky, to approve the concept application submitted by Home Detail for the property located at 4641 Polk Street NE, Columbia Heights, MN 55421. All ayes. MOTION PASSED.

Motion by Schmitt, seconded by Buesgens, to authorize staff to work with Home Detail to determine specific house plans and to prepare a Purchase and Redevelopment Agreement for consideration at the next EDA meeting on November 6, 2017. All ayes. MOTION PASSED.

2. Single Family Home Program-Approve concept application for 4201 Jefferson St NE

Dahl told members that the Columbia Heights Economic Development Authority (the “EDA”) has received two (2) concept applications from two (2) separate home builders licensed by the State of Minnesota for the construction of a single family home on the property located at 4201 Jefferson Street NE (the “Subject Property”). The Subject Property was acquired with the intent to be incorporated into the Single Family Home Lot Sales Program (the “Program”), which was established in 2015 to stabilize and increase property values throughout the City of Columbia Heights (the “City”). Lot prices for every property within the Program are based upon the most recent Estimated Market Land Value assessed by Anoka County. However, the EDA has reserved the right to review and adjust lot prices periodically provided that sufficient evidence supports the price reduction of the lot.

Dahl stated that the Subject Property was assessed by Anoka County to have a 2018 estimated market land value of \$50,000. However, after staff reached out to various local real estate agents, it was determine that the market value of the Subject Property is lower than the estimated market land value, but higher than the market value found throughout the Heritage Heights Neighborhood. Therefore, staff estimates that the Subject Property would have a market value between \$6.50 to \$7.00 per square foot or approximately \$33,540 to \$36,120 based on the square footage of the lot.

Staff has evaluated both concept applications attached hereto based upon the proposed purchase price and the compliance to the development standards in the guidelines of the Program. Both concept applications meet the development standards, as well as incorporate unique features that go above and beyond the minimum requirements. However, based on the market value of the Subject Property, Home Detail has offered \$35,000 for the Subject Property, whereas Tollberg Homes has offered \$27,500. Therefore, staff deemed it necessary for the EDA commissioners to review both concept applications since several variables are under consideration, and the EDA retains absolute authority and discretion.

STAFF RECOMMENDATION:

Staff recommends approval of the concept application submitted by Home Detail as presented.

Questions by members:

This item was discussed in tandem with the previous agenda item.

Motion by Schmitt, seconded by Buesgens, to approve the concept application submitted by Home Detail for the property located at 4201 Jefferson Street NE, Columbia Heights, MN 55421. All ayes. MOTION PASSED.

Motion by Schmitt, seconded by Buesgens, to authorize staff to work with Home Detail to determine specific house plans and to prepare a Purchase and Redevelopment Agreement for consideration at the next EDA meeting on November 6, 2017. All ayes. MOTION PASSED.

OTHER BUSINESS

3841 Central Avenue Update-

Keith Dahl stated that due to time constraints with the 7:00 pm City Council meeting, he would provide a written update to the EDA concerning this item in the coming weeks.

The meeting was adjourned at 7:00 pm.

Respectfully submitted,

Joe Hogeboom
Deputy Director

OFFICIAL PROCEEDINGS
COLUMBIA HEIGHTS TRAFFIC COMMISSION
MONDAY, FEBRUARY 6, 2017

CALL TO ORDER

The meeting was called to order by Chairperson Ed Carlson at 5:30 p.m.

ROLL CALL

Members present: Commissioners Ed Carlson, Brian Clerkin, Kevin Doty, Nick Novitsky,
and Leonard Olson

Staff Present: Kathy Young, Assistant City Engineer
Lenny Austin, Police Captain
Sue Schmidtbauer, Public Works Secretary

Council Liaison: Not present

APPROVAL OF MINUTES

Motion by Olson, seconded by Clerkin, to approve the minutes of December 5, 2016, as presented.
Motion passed unanimously.

PUBLIC HEARING: ONE HOUR PARKING ON 40TH AVENUE ADJACENT TO 332 40TH AVENUE NE

Residents present: Danny Bakri

At the Traffic Commission meeting in December, Commissioners called for a public hearing to designate "ONE HOUR PARKING, 7:00 AM TO 9:00 PM" on the south side of 40th Avenue adjacent to 332 40th Avenue NE.

Mr. Ziyad Bakri is the owner of a new convenience store at 332 40th Avenue NE (west half of the building at 334 40th Avenue NE). For the ease of his customers, Mr. Bakri requested a 30 minute time limit for two on-street parking spaces adjacent to the store.

The Traffic Commission revised the parking designation to one hour for consistency with other locations in Columbia Heights.

Motion by Olson to recommend the City Council designate ONE HOUR PARKING, 7:00 AM TO 9:00 PM for two on-street parking spaces on the south side of 40th Avenue adjacent to 332 40th Avenue NE. Seconded by Clerkin. Motion passed unanimously.

Carlson informed Mr. Bakri that this item will go to council on Monday, February 13th, and encouraged him to attend the meeting in case there are questions.

OLD BUSINESS

None

OTHER OLD BUSINESS

None

NEW BUSINESS

None

OTHER NEW BUSINESS

None

REPORTS

CITY ENGINEER

Young advised that she checked out the missing stop sign at 43-1/2 Avenue and Pierce Street. The sign that faces Pierce Street states “all way stop”. However, there is a sign missing on 43-1/2 Avenue. She is questioning if the Traffic Commission like to look into if the neighborhood is agreeable to removing the two signs on 43-1/2 Avenue and leaving the one sign on Pierce Street. This is a “T” intersection and it’s unclear how long the one sign has been gone. Young advised that the Commission can call for a public hearing or she can send a letter to residents within 300 feet of the stop sign. Doty questioned the proper procedure. Novitsky stated the sign has been missing for a while. Commissioners agreed that we should send letters and if there is no objection, remove the stop signs on 43-1/2 Avenue.

POLICE CHIEF

None

COMMISSIONERS

Carlson questioned if it is in the budget to put red tape /stripes on all the stop sign poles. Young advised this is only put on stop signs where there is non-compliance and/or neighbors have approached the city. If we put it on all signs it may not be as effective. Apparently councilmember Williams asked Carlson to visit this again in reference to the intersection at 43rd Avenue and Cleveland Street. After discussion, the Commission agreed if you overuse the markings, they will lose their effectiveness. Young feels it is more appropriate for heavily traveled areas rather than residential neighborhoods. However, she will check out this intersection.

ADJOURNMENT

Motion by Doty, seconded by Olson, to adjourn the meeting at 5:40 p.m. Motion passed unanimously.

Respectfully submitted,

Sue Schmidtbauer
Public Works Secretary

**MINUTES OF THE CITY OF COLUMBIA HEIGHTS
CHARTER COMMISSION
JULY 20, 2017
7:00 P.M.
CITY HALL-CONFERENCE ROOM #1**

Call to Order

President Steve Smith called the meeting to order at 7:00 p.m.

Oath of Office – James Guy

Roll Call/Status of Membership

Members present: Steve Smith, Matt Abel, Ramona Anderson, Roger Johnson, Tom Kaiser, Carolyn Laine, Mike Patiuk, Eric Penniston, Frost Simula, Gregory Sloat, Susan Wiseman, and James Guy

Members absent (excused): Rob Fiorendino

Also in attendance: City Attorney Jim Hoeft, Council Liaison Connie Buesgens, and City Clerk/Recording Secretary Katie Bruno

Approval of Agenda

Motion by Commissioner Abel, seconded by Commissioner Johnson to approve the agenda as presented. Motion passed unanimously.

Approval of Minutes

Motion by Commissioner Simula, seconded by Commissioner Wiseman to approve the minutes from the April 20, 2017 meeting. Motion passed unanimously.

Correspondence

Secretary Bruno reported she received a resignation from Lee Bak on April 20, 2017.

President Steve Smith reported he received an email from Commissioner Penniston with suggestions for the council appointment process. Commissioner Simula also had prepared suggestions. President Smith stated he has not received any feedback until now, and suggested continuing the discussion at the October meeting. Commissioners were encouraged to send any suggestions to himself or the Recording Secretary.

Old Business-None

New Business

A. Review of Chapter 2-Section 7; Elective offices

President Smith indicated there has been requests to consider changing the mayor's term from two to four years. Commissioner Sloat asked who made the request. President Smith indicated Mayor Schmitt, City Manager Fehst, as well as community members.

It was clarified that any change would go into effect at the next election. Commissioner Anderson commented that two years is a short amount of time to get connected and established in the role. Commissioner Johnson stated he thinks two years is a good amount of time, it allows for more frequent scrutiny.

Councilmember Buesgens reported it is very expensive to run for office, and it would be better if the term was four years. Buesgens expressed concern with equal opportunity for citizens to run, based on economic status.

Buesgens also noted with a two year term, a seated mayor could spend more time campaigning. Commissioner Laine indicated four years can be a long time, if the mayor has authority over the police department.

Commissioner Wiseman stated she thinks four years makes sense. Commissioner Abel indicated historically mayor's have served multiple terms. Commissioner Laine expressed concern with the cost to run for office, and indicated that could eliminate some people from running. Commissioner Abel suggested if accountability is an issue, why not change councilmembers to two year terms.

Motion by Commissioner Abel, seconded by Commissioner Anderson to change the mayor's term from two to four years. 10 Ayes, 2 Nays; Motion Carried.

Ayes; Steve Smith, Matt Abel, Ramona Anderson, Tom Kaiser, Carolyn Laine, Mike Patiuk, Eric Penniston, Frost Simula, Susan Wiseman, and James Guy. Nays; Roger Johnson, Gregory Sloat

President Smith clarified this was a first reading, the second reading will be considered at the October 19, 2017 meeting.

Commissioner Laine requested researching other communities for comparison.

B. Review of Chapter 2-Section 10; the Mayor's direction of the police department.

President Smith shared comparable cities' practices. Of the 14 cities, none of them have the mayor oversee the police department; three have exceptions in times of emergency.

Commissioner Sloat asked who made the request. President Smith indicated Mayor Schmitt and the City Manager have requested this be looked at.

Commissioner Sloat indicated he thinks it should remain as it is, with an elected official overseeing the police department. Commissioner Simula noted that the City Manager is accountable to the whole council. Councilmember Buesgens noted the charter does not define the expected role of the mayor as it relates to the police department. City Attorney Jim Hoeft clarified that while the mayor has the authority through the Charter to oversee the police department, the mayor does not have to exercise that authority. The former mayor delegated the authority to the City Manager. Hoeft noted this could be an issue with a prospective candidate for Police Chief. Hoeft indicated he has no concern with the current mayor; he does have a concern with the lack of parameters. Commissioner Kaiser questioned if this change would limit the ability to address personnel issues with the Police Chief. Hoeft indicated the State has a defined process for hiring as well as terminating a Chief. Hoeft noted that the suggested change would put the City Manager in charge of the police department, and from a legal standpoint, there is nothing differentiating the police department for the other city departments in administrative process.

Commissioner Abel indicated section 53 (Powers and Duties of the City Manager) would need to be addressed as well. Hoeft indicated the exception language from Section 53 could be stricken.

Hoeft indicated the language in Section 10 was part of the original Charter, adopted in 1921. Commissioner Laine commented that the police department has seen significant changes since 1921.

Commissioner Sloat expressed concern with the City Manager requesting the change. Hoeft stated he first heard of the request from the Mayor and the HR Director.

Commissioner Kaiser stated he thinks there could be negative public perception, taking the power from an elected official. Commissioner Simula disagreed, stated he thinks the public may appreciate the additional layers of accountability. Hoeft reported the City Manager has overseen every other city department without incident. Commissioner Anderson stated she likes to balance the power between the Mayor and the City Manager.

Commissioner Guy commented that the City Manager is accountable to the council. Commissioner Penniston indicated the mayor is directly elected, and the City Manager is indirectly accountable. Penniston advised the commission to think of this as future planning, not for the current conditions. Commissioner Laine commented that this may be a determining factor for a prospective Police Chief candidate.

Motion by Commissioner Laine, seconded by Commissioner Simula to make the following changes to the city's Charter:

Section 10. THE MAYOR. The mayor shall ~~have the appointment, control, and direction of all police officers of the city, and~~ shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for the purposes of the military law.

Section 53. POWERS AND DUTIES OF THE CITY MANAGER. Subject to the provisions of this charter and any regulations consistent therewith which may be adopted by council, the city manager shall control and direct the administration of the city's affairs. ~~except that the police department and the enforcement of the laws pertaining to said department shall be under the sole control of the mayor.~~

President Smith clarified this was a first reading, the second reading will considered at the October 19, 2017 meeting.

Commissioner Sloat suggested inviting the Mayor in to discuss at a future meeting, and take no action at this point. Commissioner Penniston requested to hear perspective from law enforcement.

7 Ayes, 5 Nays; Motion Carried.

Ayes; James Guy, Roger Johnson, Carolyn Laine, Mike Patiuk, Frost Simula, Steve Smith, and Susan Wiseman, Nays; Matt Abel, Ramona Anderson, Tom Kaiser, Eric Penniston, and Gregory Sloat

President Smith clarified this was a first reading, the second reading will considered at the October 19, 2017 meeting.

Motion by Commissioner Abel, seconded by Commissioner Anderson to adjourn. All Ayes, Motion carried.

Meeting adjourned at 7:54 pm.

Respectively Submitted,



Katie Bruno,
City Clerk/Recording Secretary



**Park & Recreation Commission
Minutes of the Meeting
Columbia Heights Public Library
July 26, 2017**

David Payne called the meeting to order at 5:30 p.m.

Roll Call

Members present: Anne Carder, Sean Clerkin, Kevin McDonald, David Payne, Marsha Stroik
Staff present: Kevin Hansen, Public Works Director; Keith Windschitl, Recreation Director; Deanna Saefke, Commission Secretary; Connie Buesgens, Council Liaison
Also present: Captain Lenny Austin, CHPD; residents: Jeff Besel, Lindsey Edwards

Approval Consent Agenda

Motion by Clerkin, second by Carder, to approve the consent agenda. Upon vote: All ayes. **Motion Carried.**

Letters and Requests

A. Letter of request for an open bar on July 28, 2017 for a wedding reception with approximately 150-175 guests, using a staff approved bartender.

Windschitl reported these renters are expecting around 150 guests and would be using a staff approved bartender for their open bar.

Motion by Clerkin, second by McDonald, to approve the request for an open bar on July 28, 2017 using a staff approved bartender. Upon vote: All ayes. **Motion Carried.**

B. Letter of request for an open bar on August 12, 2017 for a wedding reception with approximately 250 guests, using El Tequila restaurant for bartending services.

Windschitl conveyed the bride and groom would like to have an open bar using El Tequila restaurant in Columbia Heights for the bartending services. Staff from the restaurant have provided their license and insurance paperwork.

Motion by Clerkin, second by Carder, to approve the open bar on August 12, 2017 using El Tequila restaurant for bartending services. Upon vote: All ayes. **Motion Carried.**

C. Letter of request for an open bar on October 7, 2017 for a wedding reception with approximately 200-250 guests, using private bartenders with experience in the industry.

Stroik asked if the renter having insurance covers the alcohol service. Windschitl replied that all renters of Murzyn Hall do provide a copy of their homeowner's or renter's insurance policy with a minimum of \$100,000 in liability coverage. Staff has spoken with the renters who plan to serve only beer and wine for the reception and the groom does work in the restaurant industry so he understands the rules for serving alcohol. Staff feels this will be a responsibly run event.

Motion by McDonald, second by Clerkin, to approve the open bar on October 7, 2017 using private bartenders as long as all of the proper insurance paperwork is provided by the renter. Upon vote: All ayes. **Motion Carried.**

D. Letter of request for an open bar on November 25, 2017 for a wedding reception with approximately 120-150 guests, using staff approved bartenders.

Windschitl informed the Commission that this is actually for a 60th birthday party and the family has rented Murzyn Hall in the past.

Motion by McDonald, second by Clerkin, to approve the open bar on November 25, 2017 for the 60th birthday party using staff approved bartenders. Upon vote: All ayes. **Motion Carried.**

E. Letter of request from Heights NEXT to waive the rental fee of Murzyn Hall for a youth haunted house event on Monday, October 30, 2017.

Resident Lindsay Edwards presented the request. The HeightsNext community organization is planning a haunted house for youth in grades 7th-12th on Monday, October 30. They would like to involve students in the theater programs to build props and act during the event. There will be an entrance fee of \$2 per person or \$1 if donating a food item for SACA food shelf. The entrance fees will only go towards event costs. They are asking for the rental fees of Murzyn Hall to be waived for this community youth event.

Payne asked what time frame the event will be held. Edwards replied possibly using the facility from 5:00 p.m. – 10:00 p.m. Clerkin asked if the fee should be waived or to apply the nonprofit entry and hourly fees. Windschitl replied that on a weekday we do have other programs in the building and typically have part time staff scheduled. Edwards specified the event would only use the hall for showing a movie and then use different rooms downstairs for the haunted house.

Motion by Clerkin, second by McDonald, to waive the rental fee of Murzyn Hall for the HeightsNEXT youth haunted house on Monday, October 30, 2017. Upon vote: All ayes. **Motion Carried.**

Old Business

A. Contract award and schedule for the Circle Terrace Park building (update).

Hansen indicated the Circle Terrace Park building is going to require more funding as the building estimates have increased. To qualify for the federal funding already awarded, \$375,000, the building needs to be completed by December 31, 2017. To stay within that timeline and be able to finish construction by the end of the year that means that the building supplies need to be ordered very soon. The only change made to the plans is to have shingles on the roof and not metal. Hansen indicated staff is looking into other ways to reduce costs during construction.

B. Keyes Park final plans and bidding schedule

Hansen recommended to the Commission to approve the Keyes Park final plans and advertise for bids. He detailed the work at Keyes Park will include regrading of the fields, reconfigured parking lots, and the perimeter to the playground area. The add alternate item will be the trail system and sidewalk at 45th Avenue. Hansen indicated the area that is now Keyes Park used to be an old land fill area that expanded to Central Avenue. Because of this history the results of the soil borings may cause the storm water pond to need a lining if there is any chemical contamination. If a lining is need in the infiltration basins this may delay the whole construction process. The ballfields will have landfill brought in and the whole area will be raised up so no excavation will be needed in that area. Hansen indicated the budget includes \$350,000 out of the park budget and \$75,000 from storm water funds.

Motion by Clerkin, second by Stroik, to recommend to the City Council to approve Keyes Park Master Plan items one through five with number six as an add alternate. Upon vote: All ayes. **Motion Carried.**

C. Review of park facility use policy

Windschitl stated the attached park facility use policy was approved in 1996. He researched policies in other cities that had various rules; he has copies if any members would like to review them. Regarding park closing times, Windschitl stated that often times the adult softball league has the last game ending between 10:00 and 10:30 p.m. so he feels the 11:00 p.m. closing time should remain the same. McDonald pointed out there isn't any mention of enforcement within the ordinances. Windschitl reported the staff at the Police Department brought up in their discussion regarding who the park is rented to and having the possibility of only allowing a park rental to a resident of the City. Recreation staff believes that rentals should be accepted from anyone no matter where they live. Windschitl detailed in 2016 there were 129 park rentals; of those 29 were non-residents of Columbia Heights.

Hansen asked if the Commission feels the rental fees for the park are appropriate or too low. He feels the rate is low compared to other cities and would suggest keeping the resident rate low and making the non-resident rate higher. Windschitl responded the reason for keeping the rental fees low is so that people actually go forward with the reservation process and avoid conflicts if multiple people are trying to use the park at the same time. Staff is currently reviewing all rental rates. Buesgens stated it would be a good time to review rental rates at other cities as well. Stroik asked if background checks should be done on renters. Windschitl replied no because the process is too costly and there wouldn't always be enough time to get the results back prior to a rental. Buesgens asked if there is a way to put up a sign for each rental. Windschitl replied that a reservation sign is given to the renters and that they should have a copy of their park permit with them to avoid any conflicts. He has not heard of many issues this year of people having conflicts during rentals.

Windschitl explained this discussion was to introduce the topic to the Commission and for the members to review the policy and bring back any changes they feel necessary at a future meeting.

New Business

A. McKenna Park pool misbehavior

Resident Jeff Besel is present to discuss the behavior. Besel sent a letter describing the behavior to the City Council and City Manager. Stroik asked if a sign could be placed at the pool indicating suggested ages for wading pool use. Besel replied there is a sign asking for children to be supervised. For the specific incident for which he wrote the letter a cop did arrive but did not get out of the car and said there was nothing he could do. Stroik asked why an age limit or supervision is not part of the ordinance. She stated according to the signage if a child is acting in a manner against the rules stated they should be allowed to be removed from the area. Austin pointed out that in this situation the ages should be taken into consideration. This is regarding a possible ten year old and six year old. The other question is if this is criminal behavior and it is not. He feels this is more of a policy situation. In most cases a police officer is not going to remove a ten year old from an area and doesn't know if they would have the authority to do that. Besel indicated there have been several issues at the pool this year and it is worse than last year. It seems to be a few specific kids that are causing the issues. He wants to see the pool remain open for all kids in the community. There was another incident earlier in the season, many adults tried to talk to the kids involved, one parent did call the police. This officer came, got the older kids out of the pool and had them over by his car talking to them and showing his vehicle to the group. Besel stated it was a very different response. Austin replied that was great for the officer to conduct themselves in that manner but depending on the time of day or any other situation occurring at the same time, an officer might not have that time to devote to the situation. He indicated since this incident the department has tried to send some of the non-sworn staff through the area to have some interaction with the kids at the pool. As time allows some officers have stopped at the park on busier days. However this is based on activity level at that time so the interactions can be hit or miss. In regards

to youth behavior, officers are often limited in how they can react to the situation.

Buesgens realizes there isn't a budget to have full time staff at the pools, but asked if there is a way to have an on call Public Works or Recreation staff that could go to the pool to help with the situation. Clerkin replied that yes in prior times you could discipline poor behavior just be having any adult say something to a child but that is no longer the case and it is why the police are often called to assist. Public Works and Recreation staff is not trained in dealing with bad behaviors where the police are more equipped to handle any type of situation calmly. Carder indicated in this letter a parent also came out and was accosting the other parent for calling the cops. Austin replied the preferable outcome is to calmly talk through a situation but feels this needs to be addressed for a long term solution. Payne stated if the pool is drained for a length of time that would be an immediate response that would unfortunately affect all users. Buesgens stated she does not want to see the pool closed. Besel replied that makes everyone upset and the trouble makers are still going to return. Austin indicated other cities look at changing park hours. Windschitl printed ordinances from ten surrounding cities. There isn't any one clear solution. Minneapolis does have park police that frequently visits different parks and enforces the policies. Columbia Heights has never had a budget for that type of staffing. He feels that is always a concern when discussing park policies is who is going to enforce them, whether it is a dog leash, smoking, or park usage. Even staff at the Hylander Center at not instructed to get in the middle of confrontations if an argument occurs. Buesgens indicated with a sign at the park it implies enforcement. Hansen asked who the sign implies that is enforcing the rules; enforced by the users or by an outside entity. There is no ordinance that addresses this, and should there be? He feels the answer is no because it can set the City up for the liability. You also do not want an untrained staff to be on call to try and enforce behavior either. As a parent he would see the sign and assume that are rules enforced by the parent watching their child. Hansen asked if there have been behavior issues at the other two water features within the City. Windschitl replied a few concerns at Ramsdell and really nothing at the Huset splash pad. He does not want to close the pool for the good kids using it. Besel replied that if there is a history of making a difference if the pool is closed he would be sad, but would want there to be an obvious sign stating the pool is closed because of behavior. He suggested posting an age limit. Windschitl replied that he has seen older siblings or even adults helping small children so should they be allowed in the pool.

Payne thanked Besel for his discussion. He indicated this subject will need further discussion on possible solutions but does not have an answer at this time. Buesgens asked if there is a sign that could be posted when it is closed. Hansen replied a specific sign would need to be created. Besel reported the two times he was there over the past weekend and those children involved during this incident were not there. McDonald prefaced that the police are very busy but asked since there are only two wading pools in the city if a drive by or short stop at the park could be added in routes. Austin clarified that this is not a police issue. He feels that is not solving the issues and next year this will happen again. Police staff has already been stopping by McKenna Park when time and the work load allows. McDonald replied it this would just be a way to make the presence and authority known and there wasn't an expectation to stop all poor behaviors. Austin stressed this is an opportunity to find a long term solution. Stroik asked if there are any grants to have summer part time staff. Windschitl does not know of any current grants but can look for anything that might be focused on general interaction. Buesgens does not want the neighborhood to lose this amenity and asked if there is a neighborhood watch around McKenna Park. Besel replied he does speak with other adults when he is at the wading pool. He also would like to see clarification of the signs posted at the pools. Austin replied he wants all people using the pool to feel safe, and any staff dealing with a behavior situation to be safe as well. He does not want to discourage people from calling the police department, especially after business hours, but feels this type of issue needs to have a long term solution. Payne confirmed this topic needs to be discussed further but needs

to move on to the next agenda item.

Reports

A. Recreation Director

Windschitl reported the Recreation Department is applying for a federally funded grant with the school district. This would be a three year grant with a potential three year extension for youth in 5th grade and up with a focus on the arts. This would provide \$50,000 annually. Programs would include theater, puppetry, art focused trips, dance, and other types of art focused classes.

Windschitl stated the gymnastics and dance programs are in need of new instructors. The summer adult softball leagues are ending. Fall softball will be starting soon. The youth softball and baseball leagues are ending. Stroik asked if there have been any complaints with the adult softball teams at Prestemon Park. Windschitl replied no complaints from the neighborhood this year.

B. Public Works Director/City Engineer

Hansen reported the Huset West splash pad has been operating smoothly and there haven't been any issues with the controller. The unit was reprogrammed to run with 90 second intervals with each push of the button. Currently the water use has been reduced by 25%. Clerkin verified the that when the button is pushed multiple times the program will only read the current cycle and not keep turning on for all the times it was pushed. Hansen replied that is correct. The water pressure is also running at 50% which will help to reduce the water usage. Last year 9.5 million gallons of water was used. The current projection for this year is between six and seven million gallons.

Hansen informed the Commission that street lights work will be done along Central Avenue. A new sidewalk will be installed between 51st and 42nd Avenue.

Windschitl asked if construction at Keyes Park will begin in 2017. Hansen replied yes the bids are for work in to begin work around September 12, 2017 if the soil testing results are negative for contamination.

C. Commission Members

Stroik asked what the time line is for HyVee. Buesgens replied there are updates on the City website.

McDonald asked what the big building is behind White Castle. Hansen replied it is a Planet Fitness.

Payne adjourned the meeting at 6:57 p.m.

Deanna Saefke, Recreation Clerk Typist II



AGENDA SECTION	CONSENT
ITEM NO.	7C
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Consideration of Resolution canceling the City Council meeting scheduled for December 25, 2017		
DEPARTMENT:	Administration	CITY MANAGER'S APPROVAL:	
BY/DATE:	Katie Bruno	BY/DATE:	

BACKGROUND:

The second scheduled City Council meeting in December is on Monday, December 25, 2017. In the past the Council has chosen to cancel the second meeting in December.

RECOMMENDED MOTION(S):

MOTION: Move to waive the reading of Resolution No. 2017-117, there being ample copies available to the public.

MOTION: Move to adopt Resolution 2017-117, being a Resolution canceling the City Council meeting scheduled for December 25, 2017

ATTACHMENTS:

Resolution 2017-117

RESOLUTION NO. 2017-117

**A RESOLUTION CANCELING THE CITY OF COLUMBIA HEIGHTS REGULAR CITY COUNCIL MEETING
SCHEDULED FOR MONDAY DECEMBER 25, 2017**

WHEREAS: The City of Columbia Heights has historically cancelled the second meeting in December; and

WHEREAS: The City Council has agreed to cancel the regular Council meeting scheduled for Monday,
December 25, 2017

NOW, THEREFORE, BE IT RESOLVED, that all interested parties be advised of this change.

Passed this 13th of November, 2017

Offered by:

Seconded by:

Roll Call:

Donna Schmitt, Mayor

Attest:

Katie Bruno, City Clerk/Council Secretary



AGENDA SECTION	CONSENT
ITEM NO.	7D
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Approve membership renewal for one year with the League of MN Cities		
DEPARTMENT:	Administration	CITY MANAGER'S APPROVAL:	
BY/DATE:	Katie Bruno	BY/DATE:	
CITY STRATEGY:	#1; Safe Community		
Additional Strategy?	#2: Economic Strength		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND:

The City has been a member of the League of MN Cities for many years, and has received numerous benefits from this membership. The use of public funds for this membership is permitted by MN statute section 465.58. The membership year runs from September 1 to August 31.

The annual dues for this membership are based on population. The dues for the current year are \$16,980. Although the adopted 2017 budget anticipates this expenditure from the Mayor-Council budget department #101.41110, City policy requires purchases over \$15,000 to have specific City Council approval.

RECOMMENDED MOTION(S):

Move to approve membership renewal for one year with League of MN Cities for \$16,980.

ATTACHMENTS:

League of MN Cities Invoice #258461

Membership Dues Invoice

Effective during 2017-2018



City of Columbia Heights

Dues Amount: \$16,980

(Dues amount rounded to nearest dollar.)

Population: 20,158

(Population represents the 2016 State Demographer and Metropolitan Council Estimates.)

Dues are based on your population. See how we calculated your dues at: www.lmc.org/dues

For membership dues in the League of Minnesota Cities for the year beginning September 1, 2017. Annual dues for membership in the League of Minnesota Cities include subscriptions to Minnesota Cities magazine.* Pursuant to the disclosure requirements of Minnesota Statutes, Section 6.76, the proportionate amount of dues spent for lobbying purposes is 9.8%. This percentage is reported to the State Auditor as required by statute.

Payment from Public Funds Authorized by Minn. Stats, Sec. 465.58

I declare under the penalties of law that the foregoing account is just and correct and that no part of it has been paid.

Dated: September 1, 2017

David Unmacht
Executive Director, League of Minnesota Cities

Please Remit To:

Finance Department
League of Minnesota Cities
145 University Ave W
St Paul, MN 55103-2044

Include this invoice or reference
invoice #258461 on your
payment.

Questions: billing@lmc.org
Phone: (651) 281-1200

*Annual dues include subscriptions to *Minnesota Cities* magazine at \$30 per subscription according to the following schedule based on population: 249 or less, 6; 250-4999, 11; 5000-9999, 15; 10000-19999, 20; 20000-49999, 25; 50000-299999, 30; 300000+, 35. For further information on subscriptions contact the League offices. This information is given in order to meet postal regulations. Please do not use as a basis for payment.



AGENDA SECTION	CONSENT
ITEM NO.	7E
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	RESOLUTION 2017-115 AMENDING RESOLUTION 2016-99, TO TRANSFER FUNDING AUTHORITY FOR CERTAIN COMPREHENSIVE PLAN ACTIVITIES FROM FUND 226 SPECIAL PROJECTS TO FUND 420 REDEVELOPMENT.		
DEPARTMENT:	Finance	CITY MANAGER'S APPROVAL:	
BY/DATE:	Joseph Kloiber/ October 26, 2017	BY/DATE:	
CITY STRATEGY:	#8: Engaged, Multi-Generational Population		
Additional Strategy?	#7: Strong Infastructure/Public Services		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND:

In late 2016, the City Council for the City of Columbia Heights adopted resolution 2016-99 to appropriate \$100,000 within Fund 226 Special Projects to fund certain comprehensive plan activities.

Staff has subsequently determined that segregating the accounting of this multi-year project activity from the annual operating budget within Fund 226 Special Projects for parking ramp maintenance would clarify and improve the City's financial reporting.

STAFF RECOMMENDATION:

Adopt the following motions.

RECOMMENDED MOTION(S):

Motion: Move to waive the reading of Resolution 2017-115, there being ample copies available to the public.

Motion: Move to adopt resolution 2017-115 amending resolution 2016-99, to transfer funding authority for certain comprehensive plan activities from Fund 226 Special Projects to Fund 420 Redevelopment.

ATTACHMENTS:

Resolution 2017-115

RESOLUTION NO. 2017-115

A resolution of the City Council for the City of Columbia Heights, Minnesota, amending resolution 2016-99, to transfer funding authority for certain comprehensive plan activities from Fund 226 Special Projects to Fund 420 Redevelopment.

Whereas, the City Council for the City of Columbia Heights adopted resolution 2016-99 to appropriate \$100,000 within Fund 226 Special Projects to fund certain comprehensive plan activities; and

Whereas, the City has subsequently determined that segregating the accounting of this activity from the other activities within Fund 226 Special Projects would clarify and improve the City’s financial reporting;

Now, therefore, in accordance with all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

ORDER OF COUNCIL

IT IS HEREBY RESOLVED, that the City of Columbia Heights amends resolution 2016-99, to transfer \$100,000 of budget authority and fund balance for certain comprehensive plan activities from Fund 226 Special Projects to Fund 420 Redevelopment.

Passed this _____ day of _____, 2017

Offered by:

Seconded by:

Roll Call:

Donna Schmitt, Mayor

Attest:

Katie Bruno, City Clerk/Council Secretary



AGENDA SECTION	CONSENT
ITEM NO.	7F
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	FINAL PAYMENT TO PARK CONSTRUCTION COMPANY FOR 2015 STREET REHABILITATION – ZONE 1 AND STATE AID STREET OVERLAY, PROJECTS 1502 AND 1505		
DEPARTMENT:	PUBLIC WORKS	CITY MANAGER’S APPROVAL:	
BY/DATE:	KEVIN HANSEN/November 6, 2017	BY/DATE:	
CITY STRATEGY:	#7: Strong Infrastructure/Public Services		
Additional Strategy?			
SHORT TERM GOAL (IF APPLICABLE):			
Additional Goal?			

BACKGROUND: The contractor has completed the 2015 Street Rehabilitation Zone - 1 and 2015 State Aid Street Overlay, City Projects 1502 and 1505. The work consisted of the following street rehabilitation:

- Full reconstruction of 4th Street from 40th Avenue to 42nd Avenue
- Partial reconstruction/mill and overlay of 41st Avenue from Central Avenue to cul-de-sac
- Mill and overlay of 44th Avenue from Tyler Place (S) to Reservoir Boulevard
- Mill and overlay of Reservoir Boulevard from 44th Avenue (W) to 44th Avenue (E)

The work consisted of removal/milling of existing street surface, required utility construction/repair, new aggregate base as needed, full/spot replacement of curb and gutter with required concrete or bituminous driveway and walk/step replacement, spot replacement of sidewalk including ADA compliant pedestrian ramps, new bituminous surfacing, and turf/landscape restoration. Punch list items have been addressed by the contractor and final closeout documentation has been submitted.

STAFF RECOMMENDATION: Staff recommends approval of the final payment to Park Construction Company and acceptance of the work. The Engineer’s Report of Final Acceptance is attached.

RECOMMENDED MOTION(S): Move to accept the work for 2015 Street Rehabilitation Zone 1 and 2015 State Aid Street Overlay, City Project Numbers 1502 and 1505, and authorize final payment of \$8,738.65 to Park Construction Company of Minneapolis, Minnesota.

ATTACHMENT(S): Engineer’s Report of Final Acceptance

**CITY OF COLUMBIA HEIGHTS
ANOKA COUNTY, MINNESOTA**

ENGINEER'S REPORT OF FINAL ACCEPTANCE

**2015 STREET REHABILITATION ZONE 1 AND
2015 STATE AID STREET OVERLAY PROJECT
CITY PROJECT NUMBERS 1502 AND 1505**

November 7, 2017

**TO THE CITY COUNCIL
COLUMBIA HEIGHTS, MINNESOTA**

HONORABLE MAYOR AND CITY COUNCIL MEMBERS:

This is to advise you that I have reviewed the work under contract to Park Construction Company for 2015 Street Rehabilitation Zone 1 and State Aid Street Overlay Projects. The work consisted of removal/milling of existing street surface, required utility construction/repair, new aggregate base as needed, full or spot replacement of curb and gutter with required concrete or bituminous driveway and walk/step replacement, spot replacement of sidewalk, new bituminous surfacing, and turf/landscape restoration.

The contractor has completed the project in accordance with the contract.

It is recommended; herewith, that final payment be made for said improvements to the contractor in the amount as follows:

ORIGINAL CONTRACT PRICE	\$ 779,143.80
CHANGE ORDERS	<u>\$ 8,528.00</u>
FINAL CONTRACT AMOUNT	\$ 787,617.80
FINAL WORK APPROVED	\$ 787,535.98
ALL PRIOR PAYMENTS	<u>(\$ 778,797.33)</u>
BALANCE DUE	\$ 8,738.65

Sincerely,

CITY OF COLUMBIA HEIGHTS

Kevin R. Hansen
City Engineer



AGENDA SECTION	CONSENT
ITEM NO.	7G
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	FINAL PAYMENT TO ST. PAUL UTILITIES, INC. FOR WATER AND SANITARY SERVICES FOR LIBRARY BUILDING, PROJECT NO. 1410		
DEPARTMENT:	Public Works	CITY MANAGER'S APPROVAL:	
BY/DATE:	Kevin Hansen / November 6, 2017	BY/DATE:	
CITY STRATEGY:	#7: Strong Infrastructure/Public Services		
Additional Strategy?	N/A		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND: The contractor has completed the utility work at the new library. Work consisted of extending the sewer service from an existing manhole to within 5' of the building along with tapping the water main on the west side of Central Avenue and boring the water service under Central Avenue to the library site. Near the property line, the water service was split into a 6" HDPE pipe for fire suppression and a 2" HDPE pipe for potable water, and extended around the building to the mechanical room. Punch list items have been addressed by the contractor and final closeout documentation has been submitted.

STAFF RECOMMENDATION: Staff recommends approval of the final payment to St. Paul Utilities, Inc. and acceptance of the work. The Engineer's Report of Final Acceptance is attached.

RECOMMENDED MOTION(S): Move to accept the utility work for the new Columbia Heights Public Library, Project No. 1410, and authorize final payment of \$6,239.00 to St. Paul Utilities, Inc. of Little Canada, Minnesota.

ATTACHMENT(S): Engineer's Report of Final Acceptance

**CITY OF COLUMBIA HEIGHTS
ANOKA COUNTY, MINNESOTA**

ENGINEER'S REPORT OF FINAL ACCEPTANCE

**WATER AND SEWER SERVICES FOR THE NEW LIBRARY
CITY PROJECT NUMBER 1410**

November 7, 2017

**TO THE CITY COUNCIL
COLUMBIA HEIGHTS, MINNESOTA**

HONORABLE MAYOR AND CITY COUNCIL MEMBERS:

This is to advise you that I have reviewed the work under contract to St. Paul Utilities, Inc. for Water and Sewer Services for the new Library project. The work consisted of extending the sewer service from an existing manhole to within 5' of the building along with tapping the water main on the west side of Central Avenue and boring the water service under Central Avenue to the library site. Near the property line, the water service was split into a 6" HDPE pipe for fire suppression and a 2" HDPE pipe for potable water, and extended around the building to the mechanical room.

The contractor has completed the project in accordance with the contract.

It is recommended; herewith, that final payment be made for said improvements to the contractor in the amount as follows:

ORIGINAL CONTRACT PRICE	\$ 84,900.00
CHANGE ORDERS	<u>\$ 4,986.00</u>
FINAL CONTRACT AMOUNT	\$ 89,886.00
FINAL WORK APPROVED	\$ 89,886.00
ALL PRIOR PAYMENTS	<u>(\$ 83,647.00)</u>
BALANCE DUE	\$ 6,239.00

Sincerely,

CITY OF COLUMBIA HEIGHTS

Kevin R. Hansen
City Engineer



AGENDA SECTION	CONSENT
ITEM NO.	7H
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Approve the Sale of 1985 Ford Fire Pumper to Atwater Fire Department		
DEPARTMENT: Fire	CITY MANAGER'S APPROVAL:		
BY/DATE: Gary Gorman	BY/DATE:		
CITY STRATEGY:	#7: Strong Infrastructure/Public Services		
Additional Strategy?			
SHORT TERM GOAL (IF APPLICABLE):	#2 Conduct an Evaluation of City Services and Staffing Levels		
Additional Goal?			

BACKGROUND:

The Fire Department purchased a new pumper in 2016 to replace the 1985 Ford fire pumper. This was per our Capital Equipment Replacement Plan. The pumper was advertised for sale on the Minnesota State Fire Chief's web site for the past two months. Recently, Atwater Fire Department inquired about the pumper due to their current pumper needing costly repairs. They have found that this pumper will fill their need at this time as a replacement and have made an offer of \$7000.00, as is.

STAFF RECOMMENDATION:

The pumper is in good shape and will be able to give a small, less busy department a few years of good service at a price that is affordable. It is our recommendation to approve this sale for \$7000.00.

RECOMMENDED MOTION(S):

Move to approve the sale of the 1985 Ford fire pumper, as is, to the Atwater Fire Department for the sum of \$7000.00.

ATTACHMENTS:

- Picture – 1985 Pumper
- Offer Letter from Buyer

FOR SALE

1985 FORD L9000 PUMPER

Built by General Safety

Refurbished in 2004

Mileage 29,986

Engine Hours 3593

For more information about the pumper or to discuss price please contact Fire Chief Gary Gorman at 763-706-8152 or ggorman@columbiaheightsmn.gov.



From: Greg Tauer
Sent: Friday, November 03, 2017 11:30 AM
To: 'ggorman@columbiaheights.mn.gov'
Subject: 1985 ford fire truck

To Whom It May Concern,

The Atwater Fire Department is very interested in the 1985 fire truck the City of Columbia Heights, MN has for sale at a price of \$7000.00 as-is. The Atwater City Council has agreed to this price and all that is needed is for the Atwater Fire Department to vote on it at its meeting on November 7, 2017. Confirmation of this vote to be relayed to Gary Gorman per phone call on November 8, 2017. With final approval by the Columbia Heights City Council, payment will be made. Thanks for now.

Greg Tauer
Committee Chair
Atwater Fire Department



Gregory J. Tauer
Sales
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AGENDA SECTION	CONSENT ITEMS
ITEM NO.	71
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Approval Consideration for the Issuance of Multifamily Housing Revenue Bonds		
DEPARTMENT:	Community Development	CITY MANAGER'S APPROVAL:	
BY/DATE:	Keith Dahl, November 6, 2017	BY/DATE:	
CITY STRATEGY:	#3: Affordability		
Additional Strategy?	#6: Excellent Housing/Neighborhoods		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND:

On June 26, 2017, the City Council (the "Council") of the City of Columbia Heights (the "City") approved Resolution No. 2017-71, a resolution which adopted a housing program with respect to the multi-family housing project on the corner of 47th and Grand Avenue NE (the "Grand Central Flats Project"); and granted the preliminary issuance of multi-family housing revenue bonds (the "Tax-Exempt Bonds") to finance the Grand Central Flats Project in an amount not to exceed \$45,000,000. Thus, the City submitted an allocation application to the Minnesota Department of Management and Budget (the "MMB") requesting the Tax-Exempt Bonds.

On August 7, 2017, the MMB notified the City that the Grand Cantal Flats Project was allocated Tax-Exempt Bonds in the amount of \$18,060,719. Therefore, in accordance with the provisions of Minnesota State Statutes, the City is required to issue the allocated Tax-Exempt Bonds within 120 days from the date of allocation, which would be on or before December 5, 2017.

Again, the Tax-Exempt Bonds of this nature are not an obligation of the City or its taxpayers, rather an obligation of the developer. Only project revenues of the developer, which in this case is rent collected after project completion, are pledged for repayment of the Tax-Exempt Bonds.

Furthermore, with issuance of Tax-Exempt Bonds, the City Council has required that the developer reimburse the City for all the costs associated to issuance of the bonds, as well as pay an issuance fee in the amount of one percent (1%) of the principal amount issued for the Tax-Exempt Bonds. Thus, the City may realize an issuance fee of up to \$450,000, but in the case of the current Tax-Exempt Bonds being considered for issuance tonight, the City will realize an issuance fee of \$180,607.19.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 2017-119 as presented.

RECOMMENDED MOTION(S):

Motion: Move to waive the reading of Resolution 2017-119, there being ample copies available to the public.

Motion: Move to approve Resolution No. 2017-119, a resolution providing final authorization for the issuance of revenue bonds or other obligations under Minnesota Statutes, Chapter 462C, as amended, to finance the costs of a multifamily housing development; approving the forms of and authorizing the execution and delivery of the obligations and related documents; providing for the security, rights, and remedies with respect to the obligations; and taking certain other actions.

ATTACHMENTS:

1. Resolution 2017-119 (8 Pages)
2. Funding Loan Agreement
2. Borrower Loan Agreement
3. Regulatory Agreement

CITY OF COLUMBIA HEIGHTS, MINNESOTA

RESOLUTION NO. 2017-119

PROVIDING FINAL AUTHORIZATION FOR THE ISSUANCE OF REVENUE BONDS OR OTHER OBLIGATIONS UNDER MINNESOTA STATUTES, CHAPTER 462C, AS AMENDED, TO FINANCE THE COSTS OF A MULTIFAMILY HOUSING DEVELOPMENT; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE OBLIGATIONS AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS, AND REMEDIES WITH RESPECT TO THE OBLIGATIONS; AND TAKING CERTAIN OTHER ACTIONS

BE IT RESOLVED by the City Council (the “Council”) of the City of Columbia Heights, Minnesota (the “City” or the “Issuer”), as follows:

Section 1. Recitals.

1.01. The City is a home rule charter city duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota.

1.02. Pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), the Issuer is authorized to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds or other obligations to finance or refinance multifamily housing developments located within the City. As a condition to the issuance of revenue bonds or other obligations under the Housing Act, the Issuer must prepare and adopt a housing program providing the information required by Section 462C.03, subdivision 1a of the Housing Act after a public hearing.

1.03. The public hearing must be held in accordance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations promulgated thereunder (the “Regulations”), and the requirements of the Housing Act. Section 147(f) of the Code requires a public hearing duly noticed to be held by the Council on the proposed issuance of revenue bonds or other obligations and the location and nature of the proposed facility to be financed. Section 462C.04, subdivision 2 of the Housing Act requires a public hearing to be held on the housing program after one publication of notice in a newspaper circulating generally in the City, at least fifteen (15) days before the hearing. Section 462C.04, subdivision 2 of the Housing Act further requires that on or before the day on which the notice of public hearing is published, the Issuer submit a housing program to the Metropolitan Council for its review and comment as to whether such housing program furthers local and regional housing policies.

1.04. The Council may grant approval to the issuance of revenue bonds or other obligations to finance the multifamily housing development referred to in a housing program, and may authorize the submission of an application to the State of Minnesota Department of Management and Budget (“MMB”) for an allocation of bonding authority with respect to such revenue bonds or other obligations to finance the Project (as hereinafter defined) in accordance with the requirements of Section 146 of the Code and Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”).

1.05. On June 26, 2017, following a duly noticed public hearing, the Council adopted Resolution No. 2017-71 (the “Preliminary Resolution”) under the terms of which the Council, among other things: (i) granted preliminary approval to the issuance of multifamily housing revenue bonds or

other obligations (the “Obligations”), in the aggregate principal amount not to exceed \$45,000,000, under the terms of the Housing Act for the benefit of Columbia Heights Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the “Borrower”) to finance the acquisition, construction, and equipping of a multifamily housing facility comprised of up to 190 affordable rental apartments to be located in two four-story buildings, together with related common amenity spaces, including a fitness facility, a club room, and 140 or more underground parking spaces and an additional 130 or more surface parking spaces, to be located at 1069 Grandview Court NE and 4729 Grand Avenue NE in the City (the “Project”); (ii) adopted a housing program providing the information required by Section 462C.03, subdivision 1a of the Housing Act (the “Housing Program”) with respect to the Project; (iii) authorized the submission of an application for an allocation of bonding authority of the State of Minnesota pursuant to Section 146 of the Code and in accordance with the requirements of the Allocation Act; and (iv) stated the official intent of the Issuer to reimburse the Borrower for expenditures made for costs of the Project from the proceeds of tax-exempt bonds or other obligations under Section 1.150-2 of the Regulations.

1.06. The Project is now proposed to include 148 units, with 134 underground parking spaces and an additional 88 surface parking spaces.

1.07. The Preliminary Resolution constitutes a reimbursement resolution and an official intent of the Issuer to reimburse expenditures with respect to the Project from the proceeds of tax-exempt revenue obligations in accordance with the provisions of Section 1.150-2 of the Regulations.

1.08. In accordance with the requirements of Section 462C.04, subdivision 2 of the Housing Act, the Housing Program was submitted to the Metropolitan Council for its review and comments. The City received a letter from the Metropolitan Council providing its comments to the Housing Program and the Project.

1.09. In accordance with the authority granted under the Preliminary Resolution, the Issuer, in cooperation with the Borrower, submitted an application for an allocation of bonding authority to MMB. The Issuer received Certificate of Allocation No. 315, dated August 4, 2017 (the “Allocation Certificate”), from MMB allocating bonding authority to the Issuer in the amount of \$20,060,719.

1.10. The Borrower has requested that the Issuer issue the Obligations, in the aggregate principal amount not to exceed \$20,060,719 (representing the amount of bonding authority allocated to the Issuer pursuant to the Allocation Certificate), to be designated as: (i) Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017A (the “Series A Funding Note”); and (ii) Taxable Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017B (the “Series B Funding Note” and together with the Series A Funding Note, the “Funding Notes”).

1.11. With respect to the Funding Notes, there have been presented before the Council (i) a form of Funding Loan Agreement (the “Funding Loan Agreement”) proposed to be entered into by and among Citibank, N.A., a national banking association, or another financial institution selected by the Borrower (the “Funding Lender”), the City, and U.S. Bank National Association, a national banking association, or another financial institution selected by the Borrower (the “Fiscal Agent”), pursuant to which the Funding Notes are proposed to be issued; (ii) a form of Borrower Loan Agreement proposed to be entered into by and between the City and the Borrower, pursuant to which the City will loan the proceeds of the Funding Notes to the Borrower; and (iii) a form of Regulatory Agreement (the “Regulatory Agreement”) proposed to be entered into between the City, the Fiscal Agent, and the Borrower, pursuant to which certain rental and occupancy restrictions will be imposed on the Project.

Section 2. Findings, Determinations, and Declarations. Based on representations made by the Borrower to the Issuer to date, the Council hereby makes the following findings, determinations, and declarations:

2.01. The Project constitutes a “qualified residential rental project” within the meaning of Section 142(d) of the Code, and a “multifamily housing development” authorized by the Housing Act, and furthers the purposes of the Housing Act. The purpose of the Project is, and the effect thereof will be, to promote the public welfare by the acquisition and construction of a facility for use as a multifamily housing development designed primarily for occupancy by persons of low and moderate income.

2.02. The Issuer hereby authorizes the Borrower, in accordance with the provisions of the Housing Act and subject to the terms and conditions imposed by the Funding Lender (as hereinafter defined), to provide for the development of the Project and the payment of the costs of the Project by such means as shall be available to the Borrower and in the manner determined by the Borrower.

Section 3. Ratification of Submission of Housing Program. The Housing Program adopted pursuant to the Preliminary Resolution and submission thereof to the Metropolitan Council for its review and comment is hereby ratified, confirmed, and approved. The City Manager is hereby authorized to do all other things and take all other actions as may be necessary or appropriate to carry out the Housing Program in accordance with the Housing Act and any other applicable laws and regulations. Pursuant to the Housing Program, one hundred percent (100%) of the housing units within the Project will be held for occupancy by families or individuals with gross income not in excess of sixty percent (60%) of median family income, adjusted for family size.

Section 4. Ratification of Submission of Application for Allocation of Bonding Authority. The submission of an application for an allocation of bonding authority pursuant to Section 146 of the Code and the Allocation Act is hereby ratified, confirmed, and approved.

Section 5. Authorization to Issue the Funding Notes; Approving the Forms of and Authorizing the Execution and Delivery of the Funding Notes and Related Documents; Providing for the Security Rights, and Remedies with Respect to the Funding Notes.

5.01 There is hereby authorized the issuance, sale, and delivery of the Funding Notes, in the aggregate principal amount not to exceed \$20,060,719, for the following purposes: (i) the acquisition, construction and equipping of the Project; (ii) the funding of one or more reserve funds to secure the timely payment of the Funding Notes; (iii) the payment of interest on the Funding Notes during the construction of the Project; and (iv) the payment of the costs of issuance with respect to the Funding Notes. The Funding Notes shall bear interest at the rate or rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such forms, and shall have such other terms, details, and provisions as are prescribed in the Funding Loan Agreement, substantially in the form now on file with the Issuer, with necessary and appropriate variations, omissions, and insertions (including changes to the titles of the Funding Notes as deemed appropriate, and changes to the aggregate principal amounts of the Funding Notes, the stated maturities of the Funding Notes, the interest rates on the Funding Notes and the terms of redemption of the Funding Notes) as the Mayor and the City Manager (together the “City Officials”), in their discretion, shall determine. The execution of the Funding Notes with the manual or facsimile signatures of the City Officials and the delivery of the Funding Notes by the Issuer shall be conclusive evidence of such determination. All of the provisions of the Funding Notes, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof.

5.02 The Issuer hereby authorizes the Series A Funding Note to be issued as a “tax-exempt bond,” the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. The Funding Notes shall be a special, limited obligation of the Issuer payable solely from the revenues provided by the Borrower pursuant to the terms of the Borrower Loan Agreement and from the revenues and security pledged, assigned, and granted pursuant to the security documents provided by the Borrower. The Funding Notes shall not be payable from, nor charged upon any funds other than the revenue pledged to their payment, nor shall the City be subject to any liability thereon, except as otherwise provided in this paragraph. No owner of the Funding Notes shall ever have the right to compel any exercise by the City of any of its taxing powers to pay the Funding Notes or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Borrower Loan Agreement and the revenues and assets thereunder, which will be assigned to the Funding Lender. The Funding Notes shall recite that the Funding Notes are issued pursuant to the Housing Act, and that the Funding Notes, including interest and premium, if any, thereon, is payable solely from the revenues and assets pledged to the payment thereof, and the Funding Notes shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

5.03 The Funding Notes shall be sold to the Funding Lender under the terms and conditions of the Funding Loan Agreement. The Funding Loan Agreement is hereby approved and the City Officials are hereby authorized to execute and deliver the Funding Loan Agreement on behalf of the City. All of the provisions of the Funding Loan Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Funding Loan Agreement shall be substantially in the form now on file with the City with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the City Officials, in their discretion, shall determine, and the execution and delivery thereof by the City Officials shall be conclusive evidence of such determination.

5.04 The proceeds derived from the sale of the Funding Notes shall be loaned by the Issuer to the Borrower in accordance with the terms and conditions of the Borrower Loan Agreement. The Borrower Loan Agreement is hereby approved and the City Officials are hereby authorized to execute and deliver the Borrower Loan Agreement on behalf of the City. All of the provisions of the Borrower Loan Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Borrower Loan Agreement shall be substantially in the form now on file with the City with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the City Officials, in their discretion, shall determine, and the execution and delivery thereof by the City Officials shall be conclusive evidence of such determination. The proceeds of the loan to be made under the terms of the Borrower Loan Agreement are hereby authorized to be applied to the payment of a portion of the costs of the acquisition, construction, and equipping of the Project and related costs.

5.05 The obligations of the Borrower under the Borrower Loan Agreement shall be secured by such mortgages, assignments of mortgages, security agreements, assignments of rents, guarantees, and other security instruments and documents as the Borrower and the Funding Lender shall agree (the “Security Documents”). The Issuer hereby authorizes and approves the execution and delivery of the Security Documents by the Borrower to the Funding Lender.

5.06 To ensure compliance with certain rental and occupancy restrictions imposed by the Housing Act and Section 142(d) of the Code, and to ensure compliance with certain restrictions imposed by the Issuer, the City Officials are also hereby authorized and directed to execute and deliver the Regulatory Agreement. All of the provisions of the Regulatory Agreement, when executed and delivered

as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Regulatory Agreement shall be substantially in the form on file with the Issuer which is hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the City Officials, in their discretion, shall determine, and the execution thereof by the City Officials shall be conclusive evidence of such determination.

5.07 The Council authorizes the execution and delivery of the following closing documents relating to the Funding Notes (collectively, the “Closing Documents”): (i) one or more certificates of the Issuer; (ii) an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038; (iii) an endorsement to a tax certificate of the Borrower relating to arbitrage, rebate, and other tax matters; and (iv) similar documents. All of the provisions of the Funding Notes, the Funding Loan Agreement, the Borrower Loan Agreement, and the Regulatory Agreement (collectively, the “Note Financing Documents”), and the Closing Documents, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof.

5.08 The Issuer hereby authorizes Kennedy & Graven, Chartered, bond counsel to the Issuer (“Bond Counsel”), to prepare, execute, and deliver its approving legal opinions with respect to the Funding Notes and related matters.

5.09 Simultaneously with the execution and delivery of the Note Financing Documents and the Closing Documents (collectively, the “Issuer Documents”), there shall be delivered to the Issuer the following: (i) an opinion of counsel to the Borrower as to such matters as shall be required by the Issuer and Bond Counsel; (ii) one or more opinions of Bond Counsel as may be required by the Issuer, the Funding Lender, counsel to the Funding Lender, the Borrower, and counsel to the Borrower; and (iii) such other opinions, instruments, and documents as the Issuer may require as a condition to the issuance of the Funding Notes and the other actions of the Issuer authorized by this resolution.

Section 6. Additional Findings and Certifications.

6.01 The authority to approve, execute, and deliver future amendments to the Note Financing Documents or other documents executed and delivered by the Issuer in connection with the issuance of the Funding Notes is hereby delegated to the City Officials and such other officials of the Issuer who execute and deliver the Funding Notes and related documents whose signature shall appear on the Issuer Documents (the “Issuer Officials”), subject to the following conditions: (i) such amendments do not materially adversely affect the interests of the Issuer; (ii) such amendments do not contravene or violate any policy of the Issuer; and (iii) such amendments are acceptable in form and substance to Bond Counsel. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this resolution. The execution of any instrument by the Issuer Officials shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof.

6.02 In case an Issuer Official shall cease to be such officer before the delivery of the Issuer Documents, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such signatory had remained in office until delivery. In the event of the absence or disability of any Issuer Official, such officers of the Issuer as, may act on the behalf of such Issuer Official shall, without further act or authorization of the Issuer, execute and deliver the Issuer Documents.

6.03 The Issuer will not participate in the preparation of any disclosure document relating to the offer and sale of the Funding Notes (the “Disclosure Documents”), and will make no independent investigation with respect to the information contained in any Disclosure Documents and the Issuer assumes no responsibility for the sufficiency, accuracy, or completeness of such information, except for any information contained therein describing the Issuer, or litigation with respect to the Issuer. The Issuer hereby consents to the distribution of the Disclosure Documents. The Issuer hereby approves the execution and delivery by the Borrower (and any guarantor of the obligations of the Borrower) of any continuing disclosure agreement prepared and delivered for the benefit of the Funding Lender or any successors or assigns.

Section 7. Costs. The Borrower shall pay to the City any and all reasonable costs incurred by the City in connection with the Obligations or the financing of the Project, whether or not the financing of the Project is carried to completion, and whether or not the Obligations or operative instruments are executed and delivered. The Borrower shall also pay to the City the administrative fee of the City, as set forth in the Borrower Loan Agreement.

Section 8. Bond Counsel Is Empowered to Take All Necessary Actions. The Issuer Officials, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to take all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Funding Notes, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Funding Notes, the aforementioned documents, and this resolution.

Section 10. Effective Date. This resolution shall be in full force and effect from and after its passage.

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

Adopted: November 13, 2017.

Donna Schmitt, Mayor

ATTEST:

Katie Bruno, City Clerk

STATE OF MINNESOTA)
)
COUNTY OF ANOKA) SS.
)
CITY OF COLUMBIA HEIGHTS)

I, the undersigned, being the duly qualified and acting City Clerk of the City of Columbia Heights, Minnesota (the “City”), do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City Council held on November 13, 2017, with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to a resolution providing final authorization of the issuance of revenue bonds or other obligations under Minnesota Statutes, Chapter 462C, as amended, to finance the costs of a multifamily housing development; approving the forms of and authorizing the execution and delivery of the obligations and related documents; providing for the security, rights, and remedies with respect to the obligations; and taking certain other actions.

WITNESS My hand as Clerk and the corporate seal of the City this ____ day of _____, 2017.

City Clerk
City of Columbia Heights, Minnesota

First Draft
Friday, November 3, 2017

FUNDING LOAN AGREEMENT

Dated as of December 1, 2017

By and Among

CITIBANK, N.A.,
as Funding Lender,

CITY OF COLUMBIA HEIGHTS, MINNESOTA
as Governmental Lender

and

[U.S. BANK NATIONAL ASSOCIATION],
as Fiscal Agent

Relating to:

§[Series A Par]
City of Columbia Heights, Minnesota
Multifamily Housing Revenue Funding Note
(Grand Central Flats Project)
Series 2017A

§[Series B Par]
City of Columbia Heights, Minnesota
Taxable Multifamily Housing Revenue Funding Note
(Grand Central Flats Project)
Series 2017B

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- EXHIBIT A-2 - FORM OF SERIES B FUNDING NOTE
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- EXHIBIT C - FORM OF WRITTEN REQUISITION (PROJECT FUND)

FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of December 1, 2017 (this “Funding Loan Agreement”), is entered into by CITIBANK, N.A., a national banking association (together with its successors and assigns hereunder, the “Funding Lender”), the CITY OF COLUMBIA HEIGHTS, MINNESOTA, a municipal corporation and political subdivision duly organized and existing under the laws of the State of Minnesota (together with its successors and assigns, the “Governmental Lender”), and [U.S. BANK NATIONAL ASSOCIATION], a national banking association, as fiscal agent (together with any successor fiscal agent hereunder, the “Fiscal Agent”).

RECITALS

WHEREAS, the Governmental Lender is authorized by Minnesota Statutes, Chapter 462C, as amended (the “Act”), to issue multifamily housing revenue bonds or other obligations to finance in whole or in part the cost of a “Project” (hereinafter defined) for the public purposes expressed in the Act.

WHEREAS, the Act specifically authorizes the Governmental Lender to adopt a housing program, under which the Governmental Lender may: (a) make loans to provide financing for multifamily residential housing developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender, (b) issue its revenue bonds or other obligations for the purpose of obtaining money to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) pledge all or any part of the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of and interest on such bonds.

WHEREAS, Columbia Heights Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), has requested that the Governmental Lender enter into this Funding Loan Agreement under which the Funding Lender will (i) advance funds (the “Funding Loan”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “Borrower Loan”) to the Borrower to finance a portion of the costs of the acquisition, construction, and equipping of a multifamily housing facility comprised of 148 affordable rental apartments to be located in two four-story buildings, together with related common amenity spaces, including a fitness facility, a club room, and 134 underground parking spaces and an additional 88 surface parking spaces, to be located at 1069 Grandview Court NE and 4729 Grand Avenue NE in the City of Columbia Heights, Minnesota, which development will be known as Grand Central Flats, or another name selected by the Borrower (the “Project”).

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into the Borrower Loan Agreement, of even date herewith (as amended, supplemented or restated from time to time, the “Borrower Loan Agreement”), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender a Multifamily Note (Series 2017A) and a Multifamily Note (Series 2017B) (together, the “Borrower Notes”), dated the Closing Date (defined below), and the obligations of the Borrower under the Borrower Notes will be secured by a lien on and

security interest in the Project pursuant to a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing Agreement, of even date herewith (as amended, restated and/or supplemented from time to time, the "Security Instrument"), in favor of the Governmental Lender and assigned to the Funding Lender to secure the Funding Loan, encumbering the Project, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement and the Construction Funding Agreement.

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Funding Notes (Grand Central Flats Project), Series 2017A and Series 2017B (the "Series A Funding Note" and the "Series B Funding Note," respectively, and the together, the "Funding Notes"), dated as of the Closing Date, evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make the Funding Loan Agreement, the valid, binding and legal limited obligations of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Funding Notes, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants."

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to "Approved Accounting Method" refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended, supplemented or restated from time to time pursuant to the applicable provisions thereof.

(g) References to the Series A Funding Note or the Funding Loan as “tax exempt” or to the “tax exempt status” of the Series A Funding Note or the Funding Loan are to the exclusion of interest on the Series A Funding Note (other than any portion of the Series A Funding Note held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

“Act” shall have the meaning assigned to such term in the recitals above.

“Additional Borrower Payments” has the meaning given such term in the Borrower Loan Agreement.

“Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“Approved Transferee” means (1) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the “Securities Act”) that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (2) an affiliate of the Funding Lender, or (3) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which are owned only by QIBs.

“Authorized Amount” means \$[Series A&B Par], the maximum principal amount of the Funding Loan under this Funding Loan Agreement.

“Authorized Governmental Lender Representative” means the City Manager of the Governmental Lender, or such other person at the time designated to act on behalf of the Governmental Lender as evidenced by a written certificate furnished to the Funding Lender, the Fiscal Agent, the Servicer (if any) and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative.

“Borrower” means Columbia Heights Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership.

“Borrower Controlling Entity” means, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower.

“Borrower Equity Account” means the account by that name created and established in the Project Fund under this Funding Loan Agreement.

“Borrower Loan” means the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Funding Notes.

“Borrower Loan Agreement” means the Borrower Loan Agreement, of even date herewith, between the Governmental Lender and the Borrower, as amended, supplemented or restated from time to time in accordance with its terms.

“Borrower Loan Agreement Default” means any event of default set forth in 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

“Borrower Loan Amount” means the amount of \$[Series A&B Par], which is the aggregate sum of the Funding Notes.

“Borrower Loan Documents” has the meaning given such term in the Borrower Loan Agreement.

“Borrower Notes” means the “Borrower Notes” as described in the recitals of this Funding Loan Agreement.

“Business Day” means any day other than (i) a Saturday or a Sunday, or (ii) a day on which the offices of the Fiscal Agent in Saint Paul, Minnesota or federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Closing Costs” means the costs relating to the issuance of the Funding Notes.

“Closing Date” means December __, 2017, the date that initial Funding Loan proceeds are disbursed hereunder.

“Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Conditions to Conversion” has the meaning given such term in the Construction Funding Agreement.

“Construction Funding Agreement” means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and the Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement of even date herewith between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw-down loan to a fully funded loan, as amended, supplemented or restated from time to time.

“Control” means, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“Default” means the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

“Draw-Down Notice” means a notice described in Section 1.01 of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Equity Investor” has the meaning given to that term in the Borrower Loan Agreement.

“Event of Default” has the meaning ascribed thereto in Section 9.1.

“Expense Fund” means the fund by that name created and established under this Funding Loan Agreement.

“Fiscal Agent” shall mean [U.S. Bank National Association], as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

“Fiscal Agent’s Fees” shall mean the Fiscal Agent’s initial acceptance fee of \$_____ plus fees and expenses of its counsel in conjunction with the issuance of the Funding Notes and the ongoing compensation and expenses payable to the Fiscal Agent as follows:

(a) the annual administration fees of the Fiscal Agent, for the ordinary services of the Fiscal Agent rendered under this Funding Loan Agreement during each twelve-month period, which are payable in [semiannual] installments, as specified by the Fiscal Agent in advance on the Closing Date and each [June 1 and December 1] thereafter;

(b) the reasonable fees and charges of the Fiscal Agent for necessary extraordinary services rendered by it and/or reimbursement for extraordinary expenses incurred by it under this Funding Loan Agreement as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial or for appellate proceedings); provided, however, that the Fiscal Agent shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Fiscal Agent shall have been made; and

(c) for purposes of the Borrower Loan Agreement, indemnification of the Fiscal Agent by the Borrower.

“Fitch” means Fitch, Inc.

“Funding Lender” means Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan” means the “Funding Loan” as described in the recitals of this Funding Loan Agreement.

“Funding Loan Agreement” means this Funding Loan Agreement, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time pursuant to the applicable provisions hereof.

“Funding Loan Documents” means (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Regulatory Agreement, (iv) the Tax Agreement, (v) the Borrower Loan Documents, (vi) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (vii) all amendments, modifications, renewals and substitutions of any of the foregoing.

“Funding Loan Payment Fund” means the fund by that name created and established under this Funding Loan Agreement.

“Funding Loan Proceeds Account” means the account by that name created and established in the Project Fund under this Funding Loan Agreement.

“Funding Notes” means the “Funding Notes” as described in the recitals of this Funding Loan Agreement.

“Government Obligations” means noncallable, nonprepayable (i) direct, general obligations of the United States of America, or (ii) any obligations unconditionally guaranteed as to the full and timely payment of all amounts due thereunder by the full faith and credit of the United States of America (including obligations held in book entry form), but specifically excluding any mutual funds or unit investment trusts invested in such obligations.

“Governmental Lender” means the City of Columbia Heights, Minnesota.

“Governmental Lender Closing Costs” means the fees, costs and expenses incurred in connection with the closing of the Funding Loan and issuance of the Funding Notes, including, without limitation, the Governmental Lender Fee.

“Governmental Lender Fee” means the Governmental Lender’s one-time initial issuance fee in the amount of \$_____, representing one percent (1%) of the original aggregate principal amount of the Funding Notes, payable by the Fiscal Agent on behalf of the Borrower to the Governmental Lender on or before the Closing Date.

“Highest Rating Category” means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (i) both S&P and Moody’s rate a Permitted Investment and (ii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P, “A1” by Moody’s and “AAA” by Fitch is not rated in the Highest Rating Category.

“Maturity Date” means the earlier to occur of (i) _____, 20___, or (ii) any earlier date on which the unpaid principal balance of each of the Funding Notes becomes due and payable, by acceleration or otherwise.

“Maximum Rate” means the lesser of (i) [12]% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

“Minimum Beneficial Ownership Amount” means an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

“Moody’s” means Moody’s Investors Service, Inc. or its successor.

“Negative Arbitrage Deposit” has the meaning set forth in the Contingency Draw-Down Agreement.

“Noteowner” or “owner of the Funding Notes” means the owner, or as applicable, collectively the owners, of the Funding Notes as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.5 hereof.

“Opinion of Counsel” means a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Series A Funding Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Partnership Agreement” has the meaning given to that term in the Borrower Loan Agreement.

“Permitted Investments” means, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement:

(a) Government Obligations.

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America (other than the Federal Home Loan Mortgage Corporation) or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Obligations, in each case rated in the Highest Rating Category, of (i) any state or territory of the United States of America, (ii) any agency, instrumentality, authority or political subdivision of a state or territory or (iii) any public benefit or municipal corporation the principal of and interest on which are guaranteed by such state or political subdivision.

(d) Any written repurchase agreement entered into with a Qualified Financial Institution whose unsecured short term obligations are rated in the Highest Rating Category.

(e) Commercial paper rated in the Highest Rating Category.

(f) Interest bearing negotiable certificates of deposit, interest bearing time deposits, interest bearing savings accounts and bankers’ acceptances, issued by a Qualified Financial Institution if either (i) the Qualified Financial Institution’s unsecured short term obligations are rated in the Highest Rating Category or (ii) such deposits, accounts or acceptances are fully collateralized by investments described in clauses (a) or (b) of this definition or fully insured by the Federal Deposit Insurance Corporation.

(g) An agreement authorized by the Governmental Lender with the consent of the Funding Lender, held by the Fiscal Agent for the investment of moneys at a guaranteed rate with a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or the Second Highest Rating Category, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category; provided that such

agreement is in a form acceptable to the Funding Lender and the Fiscal Agent; and provided further that such agreement includes the following restrictions:

(i) the invested funds will be available for withdrawal without penalty or premium, at any time that the Funding Lender is required to pay moneys from the Fund(s) established under this Funding Loan Agreement to which the agreement is applicable;

(ii) the agreement, and if applicable the guarantee or insurance, is an unconditional and general obligation of the provider and, if applicable, the guarantor or insurer of the agreement, and ranks *pari passu* with all other unsecured unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement;

(iii) the Funding Lender and the Fiscal Agent receive an Opinion of Counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an Opinion of Counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms; and

(iv) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any Rating Agency or falls below the Second Highest Rating Category, the provider must, within ten days, either: (A) collateralize the agreement (if the agreement is not already collateralized) with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Fiscal Agent or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Funding Lender, or, if the agreement is already collateralized, increase the collateral with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Fiscal Agent or a third party custodian, in an amount reasonably satisfactory to the Funding Lender, (B) at the request of the Funding Lender, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium unless required by law or (C) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long term obligations are then rated in the Highest Rating Category or the Second Highest Rating Category. The agreement may provide that the downgraded provider may elect which of the remedies to the downgrade (other than the remedy set out in (B)) to perform.

Notwithstanding anything else in this Paragraph (g) to the contrary and with respect only to any agreement described in this Paragraph (g) or any guarantee or insurance for any such agreement which is to be in effect for any period after the Conversion Date, any reference in this Paragraph to the "Second Highest Rating Category" will be deemed deleted so that the only acceptable rating category for such an agreement, guarantee or insurance will be the Highest Rating Category.

(h) Subject to the ratings requirements set forth in this definition, shares in any money market mutual fund (including those of the Fiscal Agent, the Funding Lender or any of their affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated "AAAm G" or "AAAm" by S&P or "Aaa" by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations. If approved in writing by the Funding Lender, a money market mutual fund portfolio may also contain obligations and agreements to repurchase obligations described in

paragraphs (b) or (c). The money market mutual fund must be rated “AAAm G” or “AAAm” by S&P or Aaa by Moody’s. If at any time (i) both S&P and Moody’s rate a money market mutual fund and (ii) one of those ratings is below the level required by this paragraph, then such money market mutual fund will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency.

(i) Any other investment authorized by the laws of the State, if such investment is approved in writing by the Funding Lender.

Permitted Investments shall not include any of the following:

(i) Except for any investment described in the next sentence, any investment with a final maturity or any agreement with a term greater than one year from the date of the investment. This exception (1) shall not apply to Permitted Investments listed in paragraphs (g) and (i).

(ii) Except for any obligation described in paragraph (a) or (b), any obligation with a purchase price greater or less than the par value of such obligation.

(iii) Any asset backed security, including mortgage backed securities, real estate mortgage investment conduits, collateralized mortgage obligations, credit card receivable asset backed securities and auto loan asset backed securities.

(iv) Any interest only or principal only stripped security.

(v) Any obligation bearing interest at an inverse floating rate.

(vi) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(vii) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

(viii) Any investment described in paragraph (d) or (g) with, or guaranteed or insured by, a Qualified Financial Institution described in clause (iv) of the definition of Qualified Financial Institution if such institution does not agree to submit to jurisdiction, venue and service of process in the United States of America in the agreement relating to the investment.

(ix) Any investment to which S&P has added an “r” or “t” highlighter.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Pledged Revenues” means the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Funding Notes, consisting of the following: (i) all income, revenues, proceeds and other amounts to

which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) and derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Notes, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon (except any amounts on deposit in the Expense Fund and Rebate Fund).

“Prepayment Premium” means (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of a Borrower Note (including any Prepayment Premium as set forth in such Borrower Note) and (ii) any premium payable on the Funding Notes pursuant to this Funding Loan Agreement.

“Project” has the meaning given to that term in the Borrower Loan Agreement.

“Project Fund” means the fund by that name created and established under this Funding Loan Agreement.

“Qualified Financial Institution” means any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, savings and loan association, or insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Funding Lender the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) other entity which is acceptable to the Funding Lender. With respect to an entity which provides an agreement held by the Fiscal Agent for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

“Rating Agency” means any one and each of S&P, Moody’s and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments, which has been approved by the Funding Lender.

“Rebate Fund” means the fund by that name created and established under this Funding Loan Agreement.

“Record Date” shall mean the last day of each calendar month.

“Regulations” means with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” means the Regulatory Agreement, of even date herewith, by and among the Governmental Lender, the Borrower and the Fiscal Agent, as amended, supplemented or restated from time to time.

“Remaining Funding Loan Proceeds Account” has the meaning set forth in the Contingency Draw-Down Agreement.

“Remaining Funding Loan Proceeds Account Earnings Subaccount” has the meaning set forth in the Contingency Draw-Down Agreement.

“Required Transferee Representations” means the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“Resolution” means the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“Responsible Officer” means any officer within the Corporate Trust Department (or any successor group) of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

“Second Highest Rating Category” means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax exempt municipal debt established by S&P is “AA” for a term greater than one year, with corresponding ratings by Moody’s of “Aa.” If at any time (i) both S&P and Moody’s rate a Permitted Investment and (ii) one of those ratings is below the Second Highest Rating Category, then such Permitted Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated “AA” by S&P and “A” by Moody’s is not rated in the Second Highest Rating Category.

“Securities Act” means the Securities Act of 1933, as amended.

“Security” means the security for the performance by the Governmental Lender of its obligations under the Funding Notes and this Funding Loan Agreement as more fully set forth in Article IV hereof.

“Security Instrument” means the Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“Series A Funding Note” means the Governmental Lender’s Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017A, in the original aggregate principal amount of \$[Series A Par].

“Series B Funding Note” means the Governmental Lender’s Taxable Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017B, in the original aggregate principal amount of \$[Series B Par].

“Servicer” means any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“Servicing Agreement” means any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“S&P” means S&P Global Ratings, a Division of the McGraw Hill, and its successors.

“State” means the State of Minnesota.

“Tax Agreement” means, collectively, (a) the Tax Certificate of Borrower, executed by the Borrower, and (b) the Endorsement of Governmental Lender to Tax Certificate of Borrower, authorized by the Governmental Lender, each dated as of the Closing Date and in each case including all exhibits and other attachments thereto and in each case as may be amended from time to time.

“Tax Counsel” means Kennedy & Graven, Chartered, or any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“Tax Counsel Approving Opinion” means an opinion of Tax Counsel substantially to the effect that the Funding Notes constitute valid and binding obligations of the Governmental Lender and that, under existing statutes, regulations, published rulings, and judicial decisions, the interest on the Series A Funding Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Tax Counsel No Adverse Effect Opinion” means an opinion of Tax Counsel to the effect that the taking of the action specified therein will not impair the exclusion of interest on the Series A Funding Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“UCC” means the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” means the Governmental Lender’s rights to reimbursement and payment of its fees, costs and expenses under all of the Borrower Loan Documents, and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement, its rights of access under Section 5.17 thereof, its rights to indemnification under Section 5.15 thereof, its rights to attorneys’ fees under Sections 5.11 and 5.14 thereof, and its rights to receive notices, reports and other statements and its rights to consent to certain matters as provided in this Funding Loan Agreement and the Borrower Loan Agreement.

“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition” means a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative, a Responsible Officer of the Fiscal Agent or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent or such other Person as required under the Funding Loan Documents.

“Yield” means yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day means the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II TERMS; FUNDING NOTES

Section 2.1. Terms.

(a) Principal Amount. The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) Draw-Down Funding. The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Fiscal Agent for payment to or for the benefit of the Borrower for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of Section 7.6 hereof, the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal under the Borrower Loan Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial minimum advance of \$50,001 on the Series A Funding Note. Subject to the terms and conditions of the Borrower Loan Agreement, the Funding Lender agrees to advance, on behalf of the Governmental Lender, through the Fiscal Agent, to the Borrower under the Borrower Loan Agreement an amount not to exceed \$[Series A&B Par] allocable to the Borrower Notes, and the Funding Lender agrees to correspondingly and simultaneously advance this amount for the account of the Governmental Lender under this Funding Loan Agreement as an advance on the Funding Loan. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after _____, 20__, provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion. The Governmental Lender has reviewed and approved the form of the Contingency Draw-Down Agreement, consents to the terms thereof and agrees to take all actions reasonably required of the Governmental Lender in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement if a Draw-Down Notice is filed by the Funding Lender or the Borrower.

(c) Origination Date; Maturity. The Funding Loan shall be originated on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) Principal. The outstanding principal amount of each Funding Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances with respect to the related Borrower Note under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of a Funding Note previously received upon payment of corresponding principal amounts under the related Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of each Funding Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1. The Fiscal Agent shall keep a record of all principal advances and principal repayments made under each Funding Note and shall upon written request provide the Governmental Lender and the Funding Lender with a statement of the outstanding principal balance of each Funding Note and the Funding Loan.

(e) Interest. Interest shall be paid on the outstanding principal amount of each Funding Note at the rate or rates set forth in the related Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the related Borrower Note. Each Funding Note shall be payable from payments on the related Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due on a Borrower Note shall be deemed to be like payments or prepayments of principal, interest and premium, if any, due on the Funding Loan and the related Funding Note.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Funding Notes and all agreements made in the Funding Notes, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Funding Notes, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Funding Notes, this Funding Loan Agreement and all other Funding Loan Documents. In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends

and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of Funding Notes. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Funding Notes. The Funding Notes shall be substantially in the forms set forth in **Exhibit A-1** and **Exhibit A-2**, each attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement or State law. In connection with Conversion, the Funding Lender shall have the right to exchange the then existing Funding Notes on or after the Conversion Date for a new Funding Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Funding Notes, which amount will equal the Permanent Period Amount of the Borrower Loan.

Section 2.3. Execution and Delivery of Funding Notes. The Funding Notes shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of the Mayor and the City Manager. The manual or facsimile signatures of individuals who were the proper officers of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the authentication and delivery of the Funding Notes or shall not have held such offices at the date of the Funding Notes.

Section 2.4. Authentication. The Funding Notes shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication on such Funding Notes, substantially in the forms set forth in **Exhibit A-1** and **Exhibit A-2** hereto, shall have been manually executed by the Fiscal Agent. The Fiscal Agent shall authenticate the Funding Notes by execution of the certificate of authentication on or attached to the Funding Notes, and the certificate of authentication so executed on or attached to the Funding Notes shall be conclusive evidence that it has been authenticated and delivered under this Funding Loan Agreement.

Section 2.5. Registration and Transfer of Funding Notes; Required Transferee Representations; Participations; Sale and Assignment.

(a) On the Closing Date the Funding Lender shall deliver to the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B.

(b) The Funding Lender shall have the right to sell (i) the Funding Notes and the Funding Loan or (ii) any portion of or a participation interest in the Funding Notes and the Funding Loan, to the extent permitted by paragraph (c) of this Section 2.5, provided that such sale shall be only to Approved Transferees that execute and deliver the Required Transferee Representations to the Funding Lender and the Governmental Lender.

(c) The Fiscal Agent, on behalf of the Governmental Lender, shall provide for the registration of the Funding Notes or interests therein and the registration of transfers thereof. In that regard, the Fiscal Agent shall maintain a register which shall contain a record of the Funding Notes or interests therein at any time authenticated hereunder, together with the name and address of the holder thereof, the date of authentication, the date of transfer or payment, and such other matters as may be deemed appropriate by the Fiscal Agent or the Governmental Lender. The Governmental Lender, the Fiscal Agent and any agent of the Governmental Lender or the Fiscal

Agent shall treat the person in whose name a Funding Note is registered as of the Record Date as the owner of such Funding Note or any interest therein for the purpose of receiving payment of the Funding Note or any interest therein and for all other purposes whatsoever whether or not the Funding Note payments are overdue, and, to the extent permitted by law, neither the Governmental Lender, the Fiscal Agent nor any such agent shall be affected by notice to the contrary.

(d) The transfer of the Funding Notes and any interest therein is subject to registration by the holder thereof only upon compliance with the conditions for registration of transfer imposed on the holder under this Section 2.5 and under Section 2.6 hereof. Upon surrender of any Funding Note or any interest therein at the principal corporate trust office of the Fiscal Agent, the Governmental Lender shall execute (if necessary), and the Fiscal Agent shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), a new Funding Note or participation interest therein of a like principal amount, and having the same stated maturity, tenor and interest rate. In connection with Conversion of the Funding Loan, the Funding Lender shall have the right to exchange the then existing Funding Notes on or after the Conversion Date for new Funding Notes with a dated date of the Conversion Date and in a principal amount equal to the then outstanding principal amount of the applicable Funding Notes, which amount represents the permanent phase principal amount of the Borrower Loan.

(e) Any Funding Note or any interest therein delivered in exchange for or upon transfer of a Funding Note or any interest therein shall be a valid limited obligation of the Governmental Lender evidencing the same debt, and entitled to the same benefits under this Funding Loan Agreement, as any Funding Note or any interest therein surrendered for such exchange or transfer.

(f) Registration of the transfer of the Funding Notes or any interest therein may be made on the Fiscal Agent’s register by the holder thereof in person or by such holder’s or holders’ attorney duly authorized in writing. The Funding Notes or any interest therein presented or surrendered for registration of transfer or exchange shall (i) be accompanied by evidence of compliance with the provisions of this Section 2.5, (ii) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in a form satisfactory to the Fiscal Agent, duly executed and with guaranty of signature of the holder thereof or his, her or its attorney duly authorized in writing and (iii) include written instructions as to the details of the transfer of the Funding Notes or interest therein. Notwithstanding the other provisions of this Section 2.5, no beneficial ownership interest in the Funding Notes and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount.

(g) No service charge shall be made for any sale or assignment of any portion of the Funding Notes, but the Governmental Lender and Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(h) The parties agree that no rating shall be sought from a Rating Agency with respect to the Funding Loan or the Funding Notes.

Section 2.6. Mandatory Advances of the Funding Loan and Borrower Loan.
Notwithstanding anything to the contrary contained herein, there shall be mandatory advances of the Funding Loan and corresponding advances of the Borrower Loan in the amounts set forth on Exhibit D

attached hereto to the extent that prior advances in accordance with this Funding Loan Agreement, the Borrower Loan Agreement and the Construction Funding Agreement have not otherwise occurred. Such advances shall be deposited into the Funding Loan Proceeds Account of the Project Fund. This Section 2.6 shall apply only to the extent that amounts under the Funding Loan and Borrower Loan have not otherwise been advanced in accordance with this Funding Loan Agreement, the Borrower Loan Agreement and the Construction Funding Agreement. To the extent an advance under this Section 2.6 exceeds any Requisition submitted in accordance with such advance, the excess amount shall remain in the Project Fund and be disbursed out pursuant to a future Requisition submitted in accordance with Section 7.6 hereof.

ARTICLE III PREPAYMENT

Section 3.1. Prepayment of the Funding Notes. The Funding Notes are subject to voluntary and mandatory prepayment as follows:

(a) Each Funding Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender to the extent and in the manner and on any date that the related Funding Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the related Funding Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the related Funding Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of a Borrower Note, thereby causing the related Funding Note to be prepaid, except as specifically permitted in the applicable Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) Each Funding Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the related Borrower Note at the direction of the Funding Lender in accordance with the terms of the related Funding Note, at a prepayment price equal to the outstanding principal balance of the related Borrower Note prepaid, plus accrued interest, plus any other amounts payable under the related Borrower Note or the Borrower Loan Agreement.

Section 3.2. Notice of Prepayment. Notice of prepayment of a Funding Note shall be deemed given to the extent that notice of prepayment of the related Borrower Note is timely and properly given to Funding Lender and Fiscal Agent in accordance with the terms of the related Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of a Funding Note is required to be given.

ARTICLE IV SECURITY

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Funding Notes, to declare the terms and conditions on which the Funding Loan and the Funding Notes are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting,

however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Notes, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement other than the Expense Fund and the Rebate Fund, and any amounts held at any time in the Remaining Funding Loan Proceeds Account and the Remaining Funding Loan Proceeds Account Earnings Subaccount, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and each Funding Notes and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on each Funding Notes, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of each Funding Notes by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and the Funding Notes, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and each Funding Notes its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender

shall deliver to the Funding Lender the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

(a) Each Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;

(b) The originally executed Borrower Loan Agreement, Regulatory Agreement and Tax Agreement;

(c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Notes and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;

(d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and

(e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

At the sole expense of the Borrower, the Governmental Lender shall deliver and deposit with the Fiscal Agent or the Funding Lender such additional documents, financing statements, and instruments as the Fiscal Agent or the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Fiscal Agent or the Funding Lender of its lien and security interest in and to the Security, including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement.

ARTICLE V LIMITED LIABILITY

Section 5.1. Source of Payment of Funding Loan and Other Obligations. The Funding Loan and the Funding Notes are special, limited obligations of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or the Funding Notes or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Funding Notes or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Funding Notes, or hereunder, shall be construed to constitute an indebtedness of or a pledge of the full faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. Neither the full faith, revenues, credit nor taxing power of the State or any other political corporation or subdivision or agency thereof shall be pledged to the payment of the principal of, premium (if any), or interest on the Funding Notes or this Funding Loan Agreement. The Governmental Lender has no authority under applicable law to levy ad valorem taxes to pay the principal of, premium (if any) or interest on the Funding Loan or the Funding Notes.

Section 5.2. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future

officer, director, employee or agent of the Governmental Lender in his individual capacity, and neither the officers, directors, employees or agents of the Governmental Lender executing the Funding Notes or this Funding Loan Agreement shall be liable personally on the Funding Notes or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Funding Notes or the execution of this Funding Loan Agreement.

ARTICLE VI CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender and the Governmental Lender in their sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Funding Notes dated the Closing Date, authenticated by the Fiscal Agent;
- (b) Receipt by the Funding Lender of the original executed Borrower Notes, endorsed, without recourse, to the Funding Lender by the Governmental Lender and receipt by the Fiscal Agent of an executed copy of each Borrower Note;
- (c) Receipt by the Fiscal Agent and Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Agreement, the Security Instrument, and any UCC financing statement required by the Security Instrument;
- (d) Receipt by the Fiscal Agent of a certified copy of the Resolution;
- (e) Receipt by the Fiscal Agent of Executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- (g) Receipt by the Funding Lender and Fiscal Agent of a Tax Counsel Approving Opinion;
- (h) Receipt by the Funding Lender of an Opinion of Counsel from Tax Counsel to the effect that the Funding Notes is exempt from registration under the Securities Act, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;
- (i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the state in which it has been organized and in good standing under the laws of each other state in which the Borrower transacts business and has full power and authority to enter into the documents to which it is a party, including the Borrower Loan Documents, the Regulatory Agreement and the Tax Agreement, that its execution and delivery of and performance of its

covenants in such documents do not contravene law or any provision of any other documents to which it is a party or by which it or such property is bound or affected, and that all such agreements have been duly authorized, executed and delivered by the Borrower, and are legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and

(j) Receipt by the Funding Lender and the Governmental Lender of any other documents or opinions that the Funding Lender, the Governmental Lender or Tax Counsel may require; and

ARTICLE VII FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. Except as provided in Section 7.3 hereof, no other funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Fiscal Agent is authorized to establish and create from time to time such other funds and accounts or subaccounts as directed by the Funding Lender or, if there is a Servicer, by the Servicer, as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2. Investment of Funds. Amounts held in any funds or accounts created by the Fiscal Agent under this Funding Loan Agreement shall be invested in Permitted Investments at the written direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Agreement.

The Fiscal Agent may conclusively rely upon the Borrower's written instructions as to both the suitability and legality of the directed investments.

Although the Governmental Lender and the Borrower each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Governmental Lender and the Borrower hereby agree that confirmations of Permitted Investments are not required to be issued by the Fiscal Agent for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

Section 7.3. Establishment of Funds and Accounts. There are established with the Fiscal Agent the following funds and accounts:

- (a) The Funding Loan Payment Fund;
- (b) The Project Fund and within such fund, a Funding Loan Proceeds Account and a Borrower Equity Account;
- (c) The Rebate Fund; and
- (d) The Expense Fund and therein a Closing Cost Account and a Fiscal Agent Fee Account.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent in trust for the benefit of the Funding Lender, and except for money held in the Expense Fund and Rebate Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

Section 7.4. Funding Loan Payment Fund. The Governmental Lender and the Borrower shall have no interest in the Funding Loan Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Funding Loan Payment Fund any amounts received from the Borrower as payments of principal of or interest on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or Rebate Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

The Fiscal Agent shall establish separate subaccounts within the Funding Loan Payment Fund that are allocable to payment of debt service on the Series A Funding Note (the “Series A Funding Note Payment Subaccount”) and payment of debt service on the Series B Funding Note (the “Series B Funding Note Payment Subaccount”).

The Fiscal Agent shall apply all amounts on deposit in the Funding Loan Payment Fund in the following order of priority:

First, to pay or provide for the payment of the interest then due on the Funding Notes, as allocated pursuant to the Series A Funding Note Payment Subaccount and the Series B Funding Note Payment Subaccount;

Second, to pay or provide for the payment or the prepayment of principal on the Funding Notes, as allocated pursuant to the Series A Funding Note Payment Subaccount and the Series B Funding Note Payment Subaccount, provided moneys have been transferred or deposited into the Funding Loan Payment Fund for such purpose; and

Third, to pay or provide for the payment of the Funding Notes on their respective Maturity Dates.

If the Fiscal Agent has not received, by 11:00 a.m. Eastern time on the date interest is due on a Funding Notes, an amount sufficient to pay such interest, the Fiscal Agent shall provide immediate telephonic or electronic notice to the Funding Lender of such deficiency. The Fiscal Agent may rely on the payment terms of the Funding Notes for purposes of payments described above.

In making any payment under this Section, the Fiscal Agent may rely conclusively upon a written statement provided by the Funding Lender as to the amount payable to the Funding Lender pursuant to this Funding Loan Agreement, the Borrower Loan Agreement or the Construction Funding Agreement, as applicable.

Section 7.5. Expense Fund. The Fiscal Agent shall deposit in the Expense Fund the amounts required by the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent as provided in this Section 7.5. On the Closing Date, the Fiscal Agent shall deposit such amount to the Fiscal Agent Fee Account of the Expense Fund. Amounts on deposit in the

Expense Fund shall be used to pay the fees and expenses of the Governmental Lender and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent, at the written direction of the Borrower, to pay (i) on [each _____ 1 and _____ 1, commencing on _____ 1, 2018] to the Fiscal Agent amounts due pursuant to subparts (a) and (b) of the definition of “Fiscal Agent’s Fees” herein, which amounts shall be withdrawn first from the Fiscal Agent Fee Account until such account has been depleted, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to, or at the direction of, the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof. The Costs of Funding received by the Fiscal Agent on or prior to the Closing Date shall be deposited by the Fiscal Agent in the Closing Cost Account of the Expense Fund to pay the Costs of Funding as provided in written instructions delivered by the Borrower and countersigned by the Funding Lender.

In addition, any additional fees and expenses of Tax Counsel after the date of issuance of the Funding Notes shall be timely funded by additional deposits by the Borrower into the Closing Cost Account of the Expense Fund of moneys from the Borrower not derived from the proceeds of the Borrower Loan.

In the event that the amounts on deposit in the Expense Fund or Closing Cost Account therein are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give written notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

Written notice of any insufficiency, which results in the Governmental Lender not receiving the Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date.

Upon payment to the Fiscal Agent by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

Section 7.6. Project Fund.

(a) All proceeds of the Funding Loan provided by the Funding Lender shall be deposited to the Funding Loan Proceeds Account of the Project Fund as advanced and disbursed as herein provided. Proceeds of the Funding Loan allocable to the Series A Funding Note (the “Series A Funding Note Project Subaccount”) and the Series B Funding Note, respectively, shall be placed in separate subaccounts of the Funding Loan Proceeds Account of the Project Fund. The Borrower shall deposit, or cause to be deposited, the Equity Contributions other than the Borrower Initial Equity (as defined in the Borrower Loan Agreement) with the Fiscal Agent for further deposit into the Borrower Equity Account of the Project Fund as it is contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement, unless and to the extent required otherwise, pursuant to the Acknowledgment of Payment Direction, dated as of December 1, 2017, by the Borrower, the General Partner, the Equity Investor, _____, a _____, the Funding Lender, and _____, a _____. The Fiscal Agent shall use moneys in the Funding Loan Proceeds Account and the Borrower Equity Account of the Project Fund for the acquisition, construction, and equipping of the Project, to pay other Qualified Project Costs (which costs will be paid from the Series A Funding Note Project Subaccount) and to pay other costs related to the Project as provided herein.

Not less than 95% of the moneys representing proceeds of the Funding Loan deposited in and credited to the Funding Loan Proceeds Account of the Project Fund, and more specifically the Series A Project Funding Note Subaccount, including Investment Income thereon, will be expended for Qualified Project Costs, as such term is defined in the Borrower Loan Agreement (the "95% Requirement"). The amounts on deposit in the Funding Loan Proceeds Account of the Project Fund shall not be applied to the payment of Closing Costs.

Before any payment shall be made from the Project Fund, the Regulatory Agreement shall have been executed and submitted to a title company for recordation in the official records of Anoka County, Minnesota and there shall be filed with the Fiscal Agent a Written Requisition of the Borrower substantially in the form attached hereto as **Exhibit C** and approved by the Funding Lender pursuant to the terms, conditions and provisions of the Construction Funding Agreement. The Fiscal Agent shall be entitled to conclusively rely upon any Written Requisition in determining whether to disburse amounts from the Project Fund.

In connection with a Written Requisition:

(i) Only the signature of an authorized officer of the Funding Lender shall be required on a Written Requisition during any period in which a default by the Borrower has occurred and is then continuing under the Borrower Loan (notice of which default has been given in writing by an authorized officer of the Funding Lender to the Fiscal Agent, and the Fiscal Agent shall be entitled to conclusively rely on any such Written Notice as to the occurrence and continuation of such a default).

(ii) The Fiscal Agent shall disburse amounts in the Project Fund upon receipt of a Written Requisition signed only by the Funding Lender (and without any need for any signature by an Authorized Borrower Representative), so long as the amount to be disbursed is to be used solely to make payments of principal, interest and/or fees due under the Funding Loan Documents.

(iii) The Fiscal Agent may conclusively rely on all Written Requisitions, the execution of the Written Requisitions by the Authorized Borrower Representative and the approval of all Written Requisitions by the Funding Lender as required by this Section, as conditions of payment from the Project Fund, which Written Requisitions constitute, as to the Fiscal Agent, irrevocable determinations that all conditions to payment of the specified amounts from the Project Fund have been satisfied. These documents shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to inspect the Project or the construction work or to make any independent investigation with respect to the matters set forth in any Written Requisition or other statements, orders, certifications and approvals received by the Fiscal Agent. The Fiscal Agent is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, construction, renovation, equipping, improvement and installation of the Project.

(b) Upon receipt of each Written Requisition submitted by the Borrower and approved in writing by the Funding Lender, the Fiscal Agent shall promptly, but in any case within three Business Days, make payment from the appropriate account within the Project Fund in accordance with such Written Requisition pursuant to the Construction Funding Agreement. The Fiscal Agent shall have no duty to determine whether any requested disbursement from the

Project Fund complies with the terms, conditions and provisions of the Funding Loan Documents, constitutes payment of Qualified Project Costs or complies with the 95% Requirement. The approval in writing of a Written Requisition by the Funding Lender and shall be deemed a certification and, insofar as the Fiscal Agent and the Governmental Lender are concerned, shall constitute conclusive evidence that all of the terms, conditions and requirements of the Funding Loan Documents applicable to such disbursement have been fully satisfied or waived and the Written Requisition from the Borrower shall, insofar as the Fiscal Agent and the Governmental Lender are concerned, constitute conclusive evidence that the costs described in the Written Requisition constitute Qualified Project Costs or other permitted Project costs.

The Fiscal Agent shall immediately provide Written Notice to the Borrower and the Funding Lender if there are not sufficient funds available to or on deposit with the Fiscal Agent to make the transfers as and when required by this Section 7.6(b). Except as provided in the next sentence, all such payments shall be made by check or draft payable, or by wire transfer, either (i) directly to the person, firm or corporation to be paid, (ii) to the Borrower and such person, firm or corporation, or (iii) upon receipt by the Funding Lender of evidence that the Borrower has previously paid such amount and Written Direction to the Fiscal Agent as to such as evidenced by the Funding Lender's approval of the Written Requisition to the Borrower. Upon the occurrence of an Event of Default of the Borrower of which the Fiscal Agent has actual knowledge as provided herein, which is continuing under the Funding Loan Documents, with the Written Consent of the Funding Lender, the Fiscal Agent may apply amounts on deposit in the Project Fund to the payment of principal of and interest on the Funding Notes. If a Written Requisition signed by the Authorized Borrower Representative and countersigned by an authorized officer of the Funding Lender is received by the Fiscal Agent, the requested disbursement shall be paid by the Fiscal Agent as soon as practicable, but in no event later than three Business Days following receipt thereof by the Fiscal Agent. Upon final disbursement of all amounts on deposit in the Project Fund, the Fiscal Agent shall close the Project Fund. Any amounts remaining on deposit in the Borrower Equity Account of the Project Fund following Completion of the Project shall be applied as set forth in the written instructions of the Borrower and the Funding Lender. Any amounts remaining on deposit in the Borrower Equity Account of the Project Fund on the Conversion Date shall be paid by the Fiscal Agent to the Borrower.

(c) Immediately prior to any mandatory prepayment of the Funding Loan pursuant hereto, any amounts then remaining in the Project Fund shall, at the written direction of the Funding Lender, be transferred to the Funding Loan Payment Fund to be applied to the prepayment of the Funding Notes pursuant hereto.

(d) Amounts on deposit in the Project Fund shall be invested in Permitted Investments directed in writing by the Borrower. Investment Income earned on amounts on deposit in the Project Fund shall be retained in and credited to and become a part of the amounts on deposit in the Project Fund.

Section 7.7. Rebate Fund. All amounts in the Rebate Fund shall be held, invested and disbursed by the Fiscal Agent in accordance with the provisions of this Section. The Borrower shall have the absolute obligation to deposit funds into the Rebate Fund in accordance with the provisions of the Tax Agreement. At the Written Direction of the Borrower, the Fiscal Agent shall make rebate payments to the United States Treasury. The Fiscal Agent shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Borrower and shall not be required to take any actions under the Tax Agreement on behalf of the Borrower in the absence of written instructions from the Borrower.

Within the Rebate Fund, the Fiscal Agent shall maintain such accounts as shall be necessary to comply with written instructions of the Borrower. Subject to the transfer provisions provided below, all money at any time deposited in the Rebate Fund shall be held by the Fiscal Agent in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Agreement), for payment to the federal government of the United States of America. Neither the Governmental Lender, the Borrower nor the funding Lender shall have any rights in or claim to such money. The Fiscal Agent shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report or rebate calculations. The Fiscal Agent shall have no independent duty to review such calculations or enforce the compliance by the Borrower with such rebate requirements. The Fiscal Agent shall have no duty or obligation to determine the applicability of the Code and shall only be obligated to act in accordance with written instructions provided by the Borrower.

The Fiscal Agent shall have no obligation to rebate any amounts required to be rebated pursuant to this Section, other than from money held in the funds and accounts created under this Funding Loan Agreement or from other money provided to the Fiscal Agent by the Borrower.

At the written direction of the Borrower, the Fiscal Agent shall invest all amounts held in the Rebate Fund in Qualified Investments. The Fiscal Agent shall not be liable for any consequences arising from such investment or investments.

ARTICLE VIII REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a municipal corporation and political subdivision under the laws of the State, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the special, limited obligation represented by the Funding Notes and the Funding Loan and apply the proceeds of such obligation or loan to finance a portion of the costs of the Project and (iii) carry out its other obligations under this Funding Loan Agreement and the Funding Notes, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, such Funding Loan Documents and all other agreements and instruments relating thereto.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into the Funding Loan Agreement, executing and delivering the Funding Notes, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Funding Notes pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to its knowledge, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents, or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Funding Notes and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan Agreement as evidenced by the Funding Notes.

(e) Relating to the Series A Funding Note, the State has provided an allocation of the State's 2017 private activity bond volume cap under Section 146 of the Code to the Governmental Lender.

THE ISSUER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Funding Loan. Solely from amounts pledged therefor, and subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Funding Notes, as and when the same shall become due, all in accordance with the terms of the Funding Notes and this Funding Loan Agreement.

Section 8.4. Servicer. The Funding Lender may appoint a Servicer to service and administer the Borrower Loan on behalf of the Funding Lender and the Fiscal Agent, including without limitation the fulfillment of rights and responsibilities granted by the Governmental Lender to the Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated) perform and observe any such agreement or covenant of the Governmental Lender under the Borrower Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify the Borrower, the Fiscal Agent, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has knowledge of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

(a) The Fiscal Agent shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Funding Loan and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and to make copies thereof.

Section 8.7. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, but subject always to Article V of the Funding Loan Agreement, it will:

(a) Enforce or cause to be enforced all obligations of the Borrower under the Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Regulatory Agreement within a reasonable period after any such violation is first discovered;

(b) Not take or cause to be taken any other action or actions, or fail to take any action or actions, which would cause the interest payable on the Series A Funding Note to be includable in gross income for federal income tax purposes;

(c) At all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Series A Funding Note will be excluded from the gross income of the holders of the Series A Funding Note for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any holder of the Funding Loan (allocated to the Series A Funding Note) or a portion thereof is a “substantial user” of the facilities financed with the Funding Loan or a “related person” within the meaning of Section 147(a) of the Code;

(d) Not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Funding Loan (allocated to the Series A Funding Note) to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(e) Relating to the Series A Funding Note, require the Borrower to agree, pursuant to the terms and provisions of the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan, or any other moneys which may be deemed to be

proceeds of the Funding Loan pursuant to the Code, which would cause the Funding Loan to be an “arbitrage bond” within the meaning of Sections 103(b) and 148 of the Code, and to comply with the requirements of the Code throughout the term of the Funding Loan; and

(f) Require the Borrower to take all steps necessary to compute and pay any arbitrage rebate in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Borrower shall execute, deliver and comply with the provisions of the Tax Agreement, as endorsed by the Governmental Lender, which is by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full.

For purposes of this Section 8.7, the Governmental Lender’s compliance shall be based solely on matters within the Governmental Lender’s control and no acts, omissions or directions of the Borrower, the Fiscal Agent, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender and the Fiscal Agent may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.8. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under the Borrower Loan Agreement exists.

Section 8.9. Maintenance of Records. The Funding Lender shall keep and maintain adequate records pertaining to funds and accounts relative to the Borrower Loan not established with the Fiscal Agent, if any, including all deposits to and disbursements from said funds and accounts and will provide information and records relating thereto to the Fiscal Agent or the Governmental Lender upon request.

ARTICLE IX DEFAULT; REMEDIES

Section 9.1. Events of Default. Any one or more of the following shall constitute an event of default (an “Event of Default”) under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) A default in the payment of any interest upon the Funding Notes when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Funding Notes when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise; or

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement

(other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 12.1 hereof, to the Governmental Lender, the Fiscal Agent and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” under this Funding Loan Agreement; provided that, so long as the Governmental Lender, or the Borrower on its behalf, has commenced to cure such failure to observe or perform within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender, or the Borrower on its behalf, is diligently pursuing such cure to the Funding Lender’s satisfaction, with the Funding Lender’s Written Direction or Written Consent, then the Governmental Lender, or the Borrower on its behalf, shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default; or

(d) A default in the payment of any Borrower Payment Obligations; or

(e) Any other “Default” or “Event of Default” under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

Any notice of default delivered by the Funding Lender to the Borrower shall be contemporaneously delivered to the Equity Investor.

Section 9.2. Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Funding Notes and the interest accrued to be immediately due and payable, by notice to the Fiscal Agent, the Governmental Lender and the Borrower and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Funding Notes shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Fiscal Agent, the Borrower and the Governmental Lender, rescind and annul such declaration and its consequences if:

(i) There has been deposited with the Fiscal Agent or the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of and Prepayment Premium on the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) All Events of Default, other than the nonpayment of the principal of the Funding Loan which have become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.3. Additional Remedies; Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute. The Funding Lender acknowledges and agrees that the Governmental Lender shall not be responsible or liable for any fees and expenses incurred by the Funding Lender in connection with pursuing remedies under this Article IX other than from Pledged Revenues.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. The Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the UCC applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Funding Notes, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any

power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Notes or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax exempt status of the interest on the Series A Funding Note, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower, the Governmental Lender, the Fiscal Agent and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.4, 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

Section 9.4. Application of Money Collected. Any money collected by the Funding Lender or the Fiscal Agent pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer, the Fiscal Agent and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Funding Notes, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Funding Loan; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Section 9.5. Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Funding Notes may be prosecuted and enforced by the Funding Lender without the possession of the Funding Notes or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8. Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Fiscal Agent, the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Notes. As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Notes, whether or not the Funding Notes have been accelerated or declared due and payable by reason of an Event of Default.

Section 9.11. Waiver of Appraisal and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in Section 9.11(a), shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12. Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any Governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.14. Assumption of Obligations. If the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Notes, the Regulatory Agreement, the Tax Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

**ARTICLE X
AMENDMENT; AMENDMENT OF FUNDING LOAN AGREEMENT
AND OTHER DOCUMENTS**

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Funding Notes may be amended or waived only by an instrument

signed by the Funding Lender, the Fiscal Agent and the Governmental Lender; provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower, and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender, the Fiscal Agent or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender and the Fiscal Agent.

Section 10.2. Amendments Require Funding Lender Consent. Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender.

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender, the Governmental Lender and the Fiscal Agent shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI THE FISCAL AGENT

Section 11.1. Appointment of Fiscal Agent; Acceptance. The Governmental Lender hereby appoints [U.S. Bank National Association] as Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

Section 11.2. Certain Duties and Responsibilities of Fiscal Agent.

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an event of default exists hereunder or under any Borrower Loan Document of which Fiscal Agent has been provided Written Notice, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and subject to Section 11.2(c)(iii) hereof, use the same degree of care and skill in their exercise, as a prudent corporate trust officer would exercise or use under the circumstances in the conduct of corporate trust business. The Fiscal Agent, prior to the occurrence of an event of default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations should be read into this Funding Loan Agreement against the Fiscal Agent.

(i) The Fiscal Agent may consult with counsel, and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and

protection in respect of any action taken, suffered or omitted by the Fiscal Agent hereunder in good faith and in reliance thereon.

(ii) The Fiscal Agent shall not be accountable for the use or application by the obligor of the Funding Notes or the proceeds thereof or for the use or application of any money paid over by the Fiscal Agent in accordance with the provisions of this Funding Loan Agreement or for the use and application of money received by any paying agent.

(iii) The Fiscal Agent shall not be liable for any loss, expense or liability incurred as a result of such investment made in accordance with directions of the Borrower or the Governmental Lender, as applicable.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Fiscal Agent shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(iii) The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Funding Lender relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power conferred upon the Fiscal Agent under this Funding Loan Agreement; and

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Borrower Loan Documents to which it is a party and other related documents, solely in its capacity as Fiscal Agent.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Funding Loan Agreement.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

(g) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 shall extend to actions taken or omitted in its role as assignee of the Governmental Lender under the Borrower Loan Agreement and the other Funding Loan Documents.

(h) In connection with the issuance of the Funding Notes, certain moneys will be deposited with the Fiscal Agent before the closing date pursuant to one or more letters of instruction from the provider or providers of such money. Such moneys will be held by the Fiscal Agent subject to the terms and conditions of this Funding Loan Agreement in addition to terms provided in such letter(s) of instruction. For such purpose the standards of care, provisions regarding responsibilities and indemnification and other sections relating to the Fiscal Agent contained in this Funding Loan Agreement and the Borrower Loan Agreement (the "Effective Provisions") shall be effective as of the first day of receipt by the Fiscal Agent of such moneys. The Effective Provisions shall be deemed incorporated into such letter(s) of instructions.

Section 11.3. Notice of Defaults. Upon the occurrence of any default hereunder or under any Borrower Loan Document and provided that a Responsible Officer of the Fiscal Agent is aware of or has received Written Notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Equity Investor, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

Section 11.4. Certain Rights of Fiscal Agent. Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the purported proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Governmental Lender Representative;

(c) Whenever in the administration of this Funding Loan Agreement or any Borrower Loan Document the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Written Certificate of the Governmental Lender, the Funding Lender, the Servicer or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any Borrower Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are

adjudicated to have resulted from its own negligence or willful misconduct, provided, that nothing contained in this subparagraph (d) shall be construed to require such security or indemnity for the performance by the Fiscal Agent of its obligations under Section 8.6 hereof;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice; and

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or the Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Direction of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

Section 11.5. Not Responsible for Recitals. The recitals contained herein and in the Funding Notes shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Notes.

The Fiscal Agent shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the funding of the Funding Loan.

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. Unless otherwise expressly provided, the Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements, reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement. The Fiscal Agent shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner.

The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

Section 11.6. May Hold Funding Notes. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Notes and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not Fiscal Agent.

Section 11.7. Moneys Held in Trust. Moneys held by the Fiscal Agent in trust hereunder need not be segregated from other funds except to the extent required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

Section 11.8. Compensation and Reimbursement. Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

- (a) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.
- (b) As security for the performance of the obligations of the Borrower under this Section and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Pledged Revenues.
- (c) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Funding Loan or the Borrower Loan or the release of this Funding Loan Agreement.

Section 11.9. Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, have at least \$500,000,000 of trust assets under management and have a combined capital surplus of at least \$2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender in its sole and absolute discretion.

Section 11.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 30 days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, with the Written Consent of the Funding Lender, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), with the Written Consent of the Funding Lender, or (iii) the Funding Lender by Written Notice delivered to the Fiscal Agent, the Governmental Lender and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the Office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender. In case all or substantially all of the Pledged Revenues and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any institution acceptable to the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof delivered to the Governmental Lender, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment in the manner hereinafter provided, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause Written Notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

Section 11.11. Acceptance of Appointment by Successor.

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the

successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights, powers and trusts.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article, to the extent operative.

Section 11.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Funding Lender within 30 days of such succession.

Section 11.13. Appointment of Co-Fiscal Agent. It is the purpose of this Funding Loan Agreement that there shall be no violation of any laws of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co-fiscal agent hereunder, upon Written Notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co Fiscal Agent, or a successor to either,

shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co-fiscal agent.

Section 11.14. Loan Servicing. The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Funding Loan and Borrower Loan, as set forth in a Servicing Agreement. The Funding Lender shall provide Written Notice to the Fiscal Agent of the appointment, termination or replacement of any Servicer. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

Section 11.16. USA Patriot Act Requirements of the Fiscal Agent. To help the government of the United States of America fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Fiscal Agent may request documentation to verify such person's formation and existence as a legal entity and the identity of the owners or controlling persons thereof. The Fiscal Agent may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such person or other relevant documentation.

ARTICLE XII MISCELLANEOUS

Section 12.1. Notices. All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

If to the Borrower:

Columbia Heights Leased Housing Associates III, LLLP
2905 Northwest Boulevard #150
Plymouth, Minnesota 55441
Attention: Mark S. Moorhouse and Owen C. Metz
E-mail: mmoorhouse@dominiuminc.com
ometz@dominiuminc.com
Telephone: (763) 354-5618

with a copy to:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402-4629
Attention: John D. Nolde
E-mail: jnolde@winthrop.com

Telephone: (612) 604-6720

If to the Equity Investor:

Attention: _____
Facsimile: _____
Telephone: _____

with a copy to:

Attention: _____
Facsimile: _____
Telephone: _____

If to the Governmental Lender:

City of Columbia Heights, Minnesota
590 – 40th Avenue NE
Columbia Heights, Minnesota 55421
Attention: Keith M. Dahl, Economic Development Manager
Email: KDahl@columbiaheightsmn.gov
Telephone: (763) 706-3674

with a copy to:

Kennedy & Graven, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55082
Attention: John Utley and Sofia E. Lykke
E-mail: jutley@kennedy-graven.com
slykke@kennedy-graven.com
Telephone: (612) 337-9300

If to Funding Lender:

Citibank, N.A.

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

and a copy to:

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

Prior to Conversion
Date, with a copy to:

Citibank, N.A.

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

After the Conversion
Date, with a copy to:

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

Copy of any notices
of default sent to:

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

If to Fiscal Agent:

[U.S. National Association]
[60 Livingston Avenue, 3rd Floor
EP-MN-WS3C
Saint Paul, Minnesota 55107-2292
Attention: _____, Vice President
Facsimile: (651) 466-____]

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement

by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 12.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Funding Notes, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 12.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 12.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period after such date and prior to the date of payment.

Section 12.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State.

Section 12.6. Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Funding Notes or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 12.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 12.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 12.9. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE PARTIES HERETO (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

Section 12.10. Electronic Transactions.

(a) The transactions described in this Funding Loan Agreement may be conducted and related documents and may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

(b) For purposes of this subsection (b) of this Section, the Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Funding Loan Agreement and delivered using Electronic Means; provided, however, that Borrower, the Governmental Lender or and such other party giving such instruction (the “Sender”) shall provide to the Fiscal Agent an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. “Electronic Means” shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder. If the Sender elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent’s understanding of such Instructions shall be deemed controlling. The Borrower, the Governmental Lender and any other Sender understand and agree that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Governmental Lender and the other parties who may give instructions to the Fiscal Agent under this Funding Loan Agreement; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 12.11. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of the first day of December 1, 2017.

Section 12.12. Comptroller of the Currency. The Governmental Lender, the Funding Lender and the Borrower acknowledge that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of security transactions as they occur. The

Borrower specifically waives such right to notification to the extent permitted by law and acknowledges that it will receive periodic transaction statements that will detail all investment transactions.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

CITIBANK, N.A., as Funding Lender

By: _____
Name: _____
Authorized Signatory

[U.S. BANK NATIONAL ASSOCIATION], as
Fiscal Agent

By: _____
Name: _____
Title: _____

**CITY OF COLUMBIA HEIGHTS,
MINNESOTA, as the Governmental Lender**

By _____
Its Mayor

By _____
Its City Manager

EXHIBIT A-1

FORM OF SERIES A FUNDING NOTE

THIS NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING NOTE (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS FUNDING NOTE OR ANY INTEREST HEREIN TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

**CITY OF COLUMBIA HEIGHTS, MINNESOTA
MULTIFAMILY HOUSING REVENUE FUNDING NOTE
(GRAND CENTRAL FLATS PROJECT)
SERIES 2017A**

[\$Series A Par]

Date of Issuance: December __, 2017

FOR VALUE RECEIVED, the City of Columbia Heights, Minnesota (the “Obligor”), promises to pay to the order of CITIBANK, N.A. (the “Holder”) the maximum principal sum of _____ **and No/100 Dollars** (\$[Series A Par]) on _____, 20__, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under the Funding Loan Agreement, dated as of December 1, 2017 (the “Funding Loan Agreement”), among Obligor, [U.S. Bank National Association], as fiscal agent (the “Fiscal Agent”), and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Funding Note then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement or in the Borrower Loan Agreement (as described below).

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

This Funding Note is a pass-through obligation relating to a portion of a loan (the “Borrower Loan”) made by Obligor from a portion of the proceeds of the Funding Loan to COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership, as borrower (the “Borrower”), under the Borrower Loan Agreement, dated as of December 1, 2017 (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”),

between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under this Funding Note.

This Funding Note and the Funding Loan are special, limited obligations of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. Neither the Governmental Lender, the State, nor any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or this Funding Note or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or the Funding Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Funding Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever.

This Funding Note is subject to the express condition that at no time shall interest be payable on this Funding Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Funding Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Funding Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Funding Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Funding Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Funding Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Funding Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

The transfer of this Funding Note is subject to certain restrictions as provided in the Funding Loan Agreement and described below and to registration by the holder in person or by the holder's attorney hereof upon surrender of this Funding Note at the principal corporate trust office of the Fiscal Agent, duly endorsed or accompanied by a written instrument or instruments of transfer in form satisfactory to the Fiscal Agent and executed and with guaranty of signature by the holder hereof or his, her or its attorney duly authorized in writing, containing written instructions as to the details of the registration of the transfer of this Funding Note. Thereupon the Obligor shall execute (if necessary) and the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees (but not registered in blank or to "bearer" or a similar designation), a new Funding Note.

This Funding Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

IN WITNESS WHEREOF, the Obligor has caused this Funding Note to be duly executed in its name by the manual signatures of the Mayor and City Manager, the seal of the Obligor having been intentionally omitted as permitted by law, and has caused this Note to be dated as of the date first set forth above.

OBLIGOR:

**CITY OF COLUMBIA HEIGHTS,
MINNESOTA**

By _____
Its Mayor

By _____
Its City Manager

CERTIFICATE OF AUTHENTICATION

This Funding Note is the Funding Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: December __, 2017

[U.S. BANK NATIONAL ASSOCIATION], as
Fiscal Agent

By: _____
Name: _____
Title: _____

EXHIBIT A-2

FORM OF SERIES B FUNDING NOTE

THIS NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING NOTE (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS FUNDING NOTE OR ANY INTEREST HEREIN TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

**CITY OF COLUMBIA HEIGHTS, MINNESOTA
MULTIFAMILY HOUSING REVENUE FUNDING NOTE
(GRAND CENTRAL FLATS PROJECT)
SERIES 2017B**

[\$Series B Par]

Date of Issuance: December __, 2017

FOR VALUE RECEIVED, the City of Columbia Heights, Minnesota (the “Obligor”), promises to pay to the order of CITIBANK, N.A. (the “Holder”) the maximum principal sum of _____ **and No/100 Dollars** (\$[Series B Par]) on _____, 20__, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under the Funding Loan Agreement, dated as of December 1, 2017 (the “Funding Loan Agreement”), among Obligor, [U.S. Bank National Association], as fiscal agent (the “Fiscal Agent”), and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Funding Note then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement or the Borrower Loan Agreement (as described below).

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

This Funding Note is a pass-through obligation relating to a portion of a loan (the “Borrower Loan”) made by Obligor from a portion of the proceeds of the Funding Loan to COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership, as borrower (the “Borrower”), under the Borrower Loan Agreement, dated as of December 1, 2017 (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”),

between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under this Funding Note.

This Funding Note and the Funding Loan are special, limited obligations of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. Neither the Governmental Lender, the State, nor any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or this Funding Note or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or the Funding Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Funding Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever.

This Funding Note is subject to the express condition that at no time shall interest be payable on this Funding Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Funding Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Funding Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Funding Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Funding Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Funding Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Funding Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

The transfer of this Funding Note is subject to certain restrictions as provided in the Funding Loan Agreement and described below and to registration by the holder in person or by the holder's attorney hereof upon surrender of this Funding Note at the principal corporate trust office of the Fiscal Agent, duly endorsed or accompanied by a written instrument or instruments of transfer in form satisfactory to the Fiscal Agent and executed and with guaranty of signature by the holder hereof or his, her or its attorney duly authorized in writing, containing written instructions as to the details of the registration of the transfer of this Funding Note. Thereupon the Obligor shall execute (if necessary) and the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees (but not registered in blank or to "bearer" or a similar designation), a new Funding Note.

This Funding Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

IN WITNESS WHEREOF, the Obligor has caused this Funding Note to be duly executed in its name by the manual signatures of the Mayor and City Manager, the seal of the Obligor having been intentionally omitted as permitted by law, and has caused this Note to be dated as of the date first set forth above.

OBLIGOR:

**CITY OF COLUMBIA HEIGHTS,
MINNESOTA**

By _____
Its Mayor

By _____
Its City Manager

CERTIFICATE OF AUTHENTICATION

This Funding Note is the Funding Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: December __, 2017

[U.S. BANK NATIONAL ASSOCIATION], as
Fiscal Agent

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

City of Columbia Heights, Minnesota
590 – 40th Avenue NE
Columbia Heights, Minnesota 55421
Attention: Economic Development Manager

[U.S. Bank National Association]
[60 Livingston Avenue, 3rd Floor
EP-MN-WS3C
Saint Paul, Minnesota 55107-2292
Attention: _____, Vice President]

Re: Loan in the Maximum Amount of \$[Series A&B Par] from Citibank, N.A. (the “Funding Lender”) to the City of Columbia Heights, Minnesota (the “Governmental Lender”) under a Funding Loan Agreement, dated as of December 1, 2017 (the “Funding Loan Agreement”), among the Funding Lender, [U.S. Bank National Association], as fiscal agent (the “Fiscal Agent”) and the Governmental Lender (the “Funding Loan”) evidenced by those certain Funding Notes, each dated December __, 2017 (as defined in the Funding Loan Agreement)

Ladies and Gentlemen:

The Funding Lender has made the Funding Loan to the Governmental Lender which is evidenced by the Funding Notes. As the holder (the “Holder”) of the Funding Notes executed and delivered under the Funding Loan Agreement, the undersigned hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Notes. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Notes and the security therefor so that, as a reasonable lender, the Holder has been able to make its decision to make the Funding Loan and to acquire the Funding Notes.

The Holder acknowledges that it has not relied upon the addressee hereof for any information in connection with the Holder's purchase of the Funding Notes. In addition, the Funding Lender has not relied upon the use of any offering memorandum, placement memorandum or any other similar document with regards to its decision to make the Funding Loan and to acquire the Funding Notes. The Holder is making its decision to make the Funding Loan to the Governmental Lender directly through its credit review and due diligence concerning the Project. The undersigned is acquiring the Funding Notes directly from the Governmental Lender and not through a placement of the Funding Notes with the Holder through any financial institution acting as an intermediary between the Governmental Lender and the Holder.

3. The Holder is a Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933, as amended) or an Accredited Investor (as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended).

4. The Holder acknowledges that it is making the Funding Loan and acquiring the Funding Notes for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Notes; provided, however, that the Holder may, notwithstanding the terms of Paragraph 5 below, (i) transfer the Funding Notes or any portion thereof in Authorized Denominations pursuant to the terms of the Funding Loan Agreement to any affiliate or other party related to the Holder or (ii) sell or transfer the Funding Notes or any portion thereof in Authorized Denominations to a special purpose entity, a trust or custodial arrangement, from which the Funding Notes or interest therein are not expected to be sold except to beneficial owners who are Qualified Institutional Buyers or Accredited Investors or who will sign an investor letter to substantially the same effect as this Investor Letter.

5. In addition to the right to sell or transfer the Funding Notes or any portion thereof in Authorized Denominations as set forth in Paragraph 4 above, the Holder further acknowledges its right to sell or transfer the Funding Notes or any portion thereof in Authorized Denominations, subject to the delivery to the Governmental Lender of an investor letter from the transferee to substantially the same effect as this Investor Letter or in such other form authorized by the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender. The Holder will not utilize any placement memorandum in connection with any sale or transfer of the Funding Notes without providing the Governmental Lender with a draft of any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Notes evidencing the Funding Loan, and the Governmental Lender shall have the right to approve any description of the Governmental Lender and the Funding Notes therein (which approval shall not be unreasonably withheld).

6. The Holder understands that the Funding Notes are special, limited obligations of the Governmental Lender; payable solely from funds and moneys pledged by the Borrower Loan Agreement, assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Funding Notes are expressly limited as set forth in the Funding Loan Agreement and related documents.

7. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

CITIBANK, N.A., as Funding Lender

By: _____
Name: _____
Authorized Signatory

EXHIBIT C

**FORM OF WRITTEN REQUISITION
(Project Fund)**

[U.S. Bank National Association]
[60 Livingston Avenue, 3rd Floor
EP-MN-WS3C
Saint Paul, Minnesota 55107-2292
Attention: _____, Vice President]

Date: _____, 20__
No.: _____
Account(s): _____

RE: [Insert applicable Funding Note caption]

This requisition is being delivered to you in accordance with the Funding Loan Agreement, dated as of December 1, 2017 (the "Funding Loan Agreement"), among Citibank, N.A. (the "Funding Lender"), the City of Columbia Heights, Minnesota (the "Governmental Lender") and [U.S. Bank National Association], as fiscal agent (the "Fiscal Agent") pursuant to which the above-referenced note (the "Governmental Lender Note") was issued. Capitalized terms not defined herein shall have the meanings assigned thereto in the Funding Loan Agreement.

1. You are requested to disburse funds from the Project Fund and/or the subaccount(s) therein identified below, pursuant to Section 7.6 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth on Schedule I attached hereto and incorporated herein by reference. Such disbursements are to be made from the Project Fund and/or the subaccount(s) therein, as identified below, in the following amounts:

Project Fund \$ _____
Borrower Equity Account: \$ _____

2. The undersigned certifies that:

(i) there has been received no notice (a) of any lien, right to lien or attachment upon, or claim affecting the right of the payee to receive payment of, any of the moneys payable under such requisition to any of the persons, firms or corporations named therein, and (b) that any materials, supplies or equipment covered by such requisition are subject to any lien or security interest, or if any notice of any such lien, attachment, claim or security interest has been received, such lien, attachment, claim or security interest has been released, discharged, insured or bonded over or will be released, discharged, insured or bonded over upon payment of the requisition;

(ii) this Requisition contains no items representing payment on account of any percentage entitled to be retained at the date of the certificate;

(iii) on this Requisition has been incurred in or about the acquisition, construction or equipping of the Project, each item is a proper charge against the Project Fund, and the obligation has not been the basis for a prior requisition that has been paid;

(iv) this Requisition contains no items representing any closing costs or any other amount constituting an issuance cost under Section 147(g) of the Code and payment of the costs

referenced herein will not violate any representation, warranty or covenant of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Agreement; [Applies only to the Series A Funding Note Proceeds]

(v) not less than 95% of the sum of: (a) the amounts requisitioned by this Requisition to be funded from the Project Fund plus (b) all amounts previously disbursed from the Project Fund have been or will be applied by the Borrower to pay Qualified Project Costs; [Applies only to the Series A Funding Note Proceeds]

(vi) the Borrower acknowledges that fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) are not deemed to be Qualified Project Costs; and [Applies only to the Series A Funding Note Proceeds]

(vii) as of the date hereof, no event or condition has happened or is happening or exists that constitutes, or that with notice or lapse of time or both, would constitute, an Event of Default under the Funding Loan Agreement or under the Borrower Loan Agreement.

Dated: _____, 20__

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership

By: Columbia Heights Leased Housing Associates III, LLC,
a Minnesota limited liability company, its general partner

By: _____
Name: _____
Title: _____

Approved by Funding Lender:

CITIBANK, N.A., as Funding Lender

By: _____
Name: _____
Authorized Signatory

Approved by Governmental Lender Servicer:

[SERVICER]

By: _____
Name: _____
Authorized Signatory

EXHIBIT D

MANDATORY FUNDING LOAN AND BORROWER LOAN ADVANCES*

<u>END OF CALENDAR MONTH FOLLOWING CLOSING</u>	<u>2017A TAX-EXEMPT NOTE</u>	<u>2017B TAXABLE NOTE</u>
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*The required advances above only apply to the extent amounts have not otherwise previously been advanced in accordance with the Funding Loan Agreement, Borrower Loan Agreement and the Construction Funding Agreement.

CL162-054 (SEL)
510312v.1

First Draft
Friday, November 3, 2017

BORROWER LOAN AGREEMENT

Dated as of December 1, 2017

By and Between

CITY OF COLUMBIA HEIGHTS, MINNESOTA,
as Governmental Lender,

and

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP,
as Borrower

Relating to:

Funding Loan originated by CITIBANK, N.A., as Funding Lender

From the proceeds of

**[\$Series A Par]
City of Columbia Heights, Minnesota
Multifamily Housing Revenue Funding Note
(Grand Central Flats Project)
Series 2017A**

**[\$Series B Par]
City of Columbia Heights, Minnesota
Taxable Multifamily Housing Revenue Funding Note
(Grand Central Flats Project)
Series 2017B**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to Citibank, N.A., as funding lender (the "Funding Lender"), under the Funding Loan Agreement, of even date herewith, by and among the Governmental Lender, [U.S. Bank National Association], as fiscal agent (the "Fiscal Agent") and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender, the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

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EXHIBIT A - MODIFICATIONS

BORROWER LOAN AGREEMENT

THIS BORROWER LOAN AGREEMENT (this “Borrower Loan Agreement”) is entered into as of the first day of December, 2017, by and between the CITY OF COLUMBIA HEIGHTS, MINNESOTA, a municipal corporation and political subdivision under the laws of the State of Minnesota (together with its successors and assigns, the “Governmental Lender”) and COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership (together with its successors and assigns, the “Borrower”).

RECITALS

WHEREAS, the Governmental Lender is authorized by Minnesota Statutes, Chapter 462C, as amended (the “Act”), to issue multifamily housing revenue bonds or notes to finance in whole or in part the cost of a “Project” (hereinafter defined) for the public purposes expressed in the Act.

WHEREAS, the Act specifically authorizes the Governmental Lender to adopt a housing program, under which the Governmental Lender may: (a) make loans to provide financing for multifamily residential housing developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender; (b) issue its revenue bonds or notes for the purpose of obtaining money to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) pledge all or any part of the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of and interest on such bonds or notes.

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the “Borrower Loan”), for the acquisition, construction, and equipping of a multifamily housing facility comprised of 148 affordable rental apartments to be located in two four-story buildings, together with related common amenity spaces, including a fitness facility, a club room, and 134 underground parking spaces and an additional 88 surface parking spaces, to be located at 1069 Grandview Court NE and 4729 Grand Avenue NE in the City of Columbia Heights, Minnesota, which development will be known as Grand Central Flats, or another name selected by the Borrower (the “Project”).

WHEREAS, the Borrower’s repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Notes, as defined herein.

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the “Funding Loan Agreement”), by and among the Governmental Lender, [U.S. Bank National Association], as fiscal agent (the “Fiscal Agent”) and Citibank, N.A. (the “Funding Lender”), under which the Funding Lender will make a loan (the “Funding Loan”) to the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement by the Governmental Lender to the Borrower to finance the acquisition, construction and equipping of the Project.

WHEREAS, the Governmental Lender’s sole obligation to fund the Borrower Loan is limited to the proceeds from the Funding Loan.

WHEREAS, the Borrower Loan is secured by, among other things, the Mortgage, Assignment of Rents, Security Agreement and Fixture Filing Agreement, of even date herewith (as amended, restated

and/or supplemented from time to time, the “Security Instrument”), in favor of the Governmental Lender and assigned to the Funding Lender to secure the Funding Loan, encumbering the Project, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement and the Construction Funding Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1 **Principles of Construction**. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words “hereof,” “herein” and “hereunder” and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word “including” means “including but not limited to.”

Section 1.2 **Definitions**. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

“ADA” has the meaning set forth in Section 4.1.38.

“Additional Borrower Payments” means the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default) and Section 5.14 (Expenses) of this Borrower Loan Agreement; Section 3.3.3 (Borrower Loan in Balance) of the Construction Funding Agreement, and the Section 10 (Voluntary and Involuntary Prepayments) of the Borrower Notes.

“Agreement of Environmental Indemnification” means that certain Agreement of Environmental Indemnification, of even date herewith, executed by the Borrower and the Guarantor for the benefit of the Beneficiary Parties and any lawful holder, owner or pledgee of the Borrower Notes from time to time.

“Architect” means any licensed architect, space planner or design professional that the Borrower may engage from time to time, with the approval of the Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

“Architect’s Agreement” means any agreement that the Borrower and any Architect from time to time may execute pursuant to which the Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by the Funding Lender.

“Authorized Borrower Representative” means a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender, the Fiscal Agent, and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity, which certificate may designate one or more alternates.

“Bankruptcy Event” has the meaning given to that term in the Security Instrument.

“Bankruptcy Proceeding” has the meaning set forth in Section 4.1.8.

“Beneficiary Parties” means, collectively, the Funding Lender, the Fiscal Agent and the Governmental Lender.

“Borrower” is Columbia Heights Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership, its successors and assigns.

“Borrower Affiliate” means, as to the Borrower, its general partners or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the Borrower, its general partners or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its general partners or the Guarantor, or (iii) any partner or shareholder of the Borrower, its general partners or the Guarantor.

“Borrower Controlling Entity” means any general partner or managing partner of the Borrower.

“Borrower Deferred Equity” means the Equity Contributions to be made by the Equity Investor to the Borrower pursuant to and subject to the conditions, adjustments and limitations set forth in the Partnership Agreement other than Borrower Initial Equity, anticipated to be made in accordance with the following schedule:

<u>Amount</u>	<u>Date</u>
\$ _____	100% Completion, but no sooner than _____ 1, 20__
\$ _____	Conversion, but no sooner than _____ 1, 20__

\$ _____	Receipt of Form 8609, but no sooner than _____ 1, 20__
\$ _____	No sooner than _____ 1, 20__
\$ _____	_____
\$ _____	Total Borrower Deferred Equity

“Borrower Initial Equity” means an initial installment of the Equity Contributions made to the Borrower by the Equity Investor in an amount equal to \$_____, to be made on or prior to the Closing Date.

“Borrower Loan” means the loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Notes.

“Borrower Loan Agreement” means this Borrower Loan Agreement.

“Borrower Loan Amount” means \$_____, the sum of the original maximum aggregate principal amount of the Funding Notes.

“Borrower Loan Documents” means this Borrower Loan Agreement, the Construction Funding Agreement, the Funding Notes, the Security Instrument, the Agreement of Environmental Indemnification, the Guaranty, the Replacement Reserve Agreement, and all other documents or agreements evidencing or relating to the Borrower Loan.

“Borrower Loan Payment Date” means (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Funding Notes and the Borrower Loan Documents, or (ii) any other date on which the Funding Notes are prepaid or paid, whether at their scheduled maturity or upon the acceleration of the maturity thereof.

“Borrower Loan Payments” means the monthly loan payments payable pursuant to the Funding Notes or the Borrower Loan Documents.

“Borrower Loan Proceeds” means proceeds of the Borrower Loan, to be disbursed in accordance with Section 3.9 and the Construction Funding Agreement.

“Borrower Notes” means the Multifamily Note (Series 2017A) dated as of the Closing Date in the original maximum principal amount of \$[Series A Par] made by Borrower and payable to Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time and the Multifamily Note (Series 2017B) dated as of the Closing Date in the original maximum principal amount of \$[Series B Par] made by Borrower and payable to Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Borrower Payment Obligations” means all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“Business Day” means any day other than (i) a Saturday or Sunday, or (ii) a day on which the Fiscal Agent, the Funding Lender or federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Calendar Month” means each of the twelve (12) calendar months of the year.

“CC&R’s” means any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Mortgaged Property.

“Class B SLP” means [Columbia Heights Leased Housing Associates LP III, LLC], a Minnesota limited liability company.

“Closing Date” means December __, 2017, the date that the initial Borrower Loan Proceeds are disbursed hereunder.

“Code” means the Internal Revenue Code of 1986, as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date.

“Collateral” means all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Governmental Lender and the Funding Lender are granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Security Instrument, or (iii) any other Security Document, which Collateral shall include the Project, all of which collateral (exclusive of the Unassigned Rights) is pledged and assigned to the Fiscal Agent and the Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“Completion” has the meaning set forth in Section 5.26.

“Completion Date” means _____, 20__.

“Computation Date” has the meaning ascribed thereto in Section 1.148-3(e) of the Regulations.

“Condemnation” means any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“Conditions to Conversion” has the meaning ascribed thereto in the Construction Funding Agreement.

“Construction Consultant” means a third-party architect or engineer selected and retained by the Funding Lender, at the cost and expense of the Borrower, to monitor the progress of construction and/or rehabilitation of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

“Construction Contract” means any agreement that the Borrower and any Contractor from time to time may execute pursuant to which the Borrower engages the Contractor to construct any portion of the Improvements, as approved by Funding Lender.

“Construction Funding Agreement” means the Construction Funding Agreement, of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and the Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf) to the Fiscal Agent, as agent of the Governmental Lender, to the Borrower and setting forth

certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement, of even date herewith, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, of even date herewith, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Closing Date, as amended, supplemented or restated from time to time.

“Contractor” means any licensed general contractor or subcontractor that the Borrower may directly engage from time to time, with the approval of the Funding Lender, to construct any portion of the Improvements.

“Contractual Obligation” means, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“Conversion” means the Funding Lender’s determination that the Conditions to Conversion have been satisfied in accordance with the provisions of this Borrower Loan Agreement and the Construction Funding Agreement.

“Conversion Date” means the date to be designated by the Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with this Borrower Loan Agreement and the Construction Funding Agreement have been made. The Conversion Date must occur no later than the Outside Conversion Date (including the Extended Outside Conversion Date, if applicable).

“Cost Breakdown” means the schedule of costs for the Improvements, as set forth in the Construction Funding Agreement, as the same may be amended from time to time with the Funding Lender’s consent.

“Costs of Funding” means the Governmental Lender’s Closing Fee and the fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, the Borrower’s counsel, Fiscal Agent’s counsel and the Funding Lender’s counsel); (ii) financial advisor/municipal advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) any recording fees; (v) any additional fees charged by the Governmental Lender or the Fiscal Agent; and (vi) costs incurred in connection with the required public notices generally and costs of the public hearing. Any other costs occurring after the Closing Date relating to subsequent Disbursements shall be borne by the Borrower upon demand of the Governmental Lender and the provision of evidence of such costs.

“Costs of Funding Deposit” means the amount required to be deposited by the Borrower with the Fiscal Agent (or a separate escrow company, if applicable) to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

“Costs of Improvements” means the costs for the Improvements as set forth on the Cost Breakdown.

“Date of Disbursement” means the date a Disbursement is made.

“Day” or “Days” means calendar days unless expressly stated to be Business Days.

“Debt” means, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“Default Rate” has the meaning given to that term in the Series A Funding Note.

“Determination of Taxability” means (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Series A Funding Note issued by the National Office of the Internal Revenue Service in which the Governmental Lender and the Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Series A Funding Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Series A Funding Note, other than a holder who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

“Developer Fee” means the fees and/or compensation payable to [Columbia Heights Leased Housing Development III, LLC], pursuant to the Development Services Agreement, dated as of December 1, 2017, as amended/restated from time to time, between the Borrower and such developer, which fees and/or compensation shall not be paid prior to the Conversion Date except as otherwise permitted pursuant to this Borrower Loan Agreement.

“Disbursement” means a disbursement of Borrower Loan Proceeds and Other Borrower Money pursuant to this Borrower Loan Agreement and the Construction Funding Agreement.

“Engineer” means any licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that the Borrower may engage from time to time, with the approval of the Funding Lender, to perform any engineering services with respect to any portion of the Improvements.

“Engineer’s Contract” means any agreement that the Borrower and any Engineer from time to time may execute pursuant to which the Borrower engages such Engineer to perform any engineering services with respect to any portion of the Improvements, as approved by the Funding Lender.

“Equipment” shall mean equipment used now or in the future in connection with the ownership or operation of the Project, including furniture, furnishings, machinery, building materials, tools, books, records (whether in written or electronic form), computer equipment (hardware and software), and other tangible personal property owned by Borrower which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or in the Improvements (other than Fixtures (as defined in the Security Instrument)), including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances.

“Equity Contributions” means the equity to be contributed by the Equity Investor to the Borrower, in accordance with and subject to the terms, conditions and adjustments of the Partnership Agreement.

“Equity Investor” means, Transamerica Financial Life Insurance Company, a New York corporation.

“ERISA” means the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“Event of Default” means any Event of Default set forth in Section 8.1. An Event of Default shall “exist” if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“Excess Revenues” has the meaning ascribed thereto in Section 2.2.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Expenses of the Project” means, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents or from insurance proceeds received by the Borrower), a management fee (however characterized) not to exceed 3.5% of Gross Income, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Extended Outside Conversion Date” has the meaning set forth in the Construction Funding Agreement.

“Fair Market Value” means the price at which a willing buyer would purchase an investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Fiscal Agent” shall mean the fiscal agent from time to time under and pursuant to the Funding Loan Agreement. Initially, the Fiscal Agent is [U.S. Bank National Association].

“Funding Lender” means Citibank, N.A., a national banking association, in its capacity as lender under the Funding Loan.

“Funding Loan” means the Funding Loan in the original maximum principal amount of \$[Series A&B Par], made by the Funding Lender to the Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time pursuant to the applicable provisions thereof.

“Funding Loan Documents” has the meaning given to that term in the Funding Loan Agreement.

“Funding Notes” means, collectively, the Series A Funding Note and the Series B Funding Note.

“GAAP” means generally accepted accounting principles as in effect on the date of the application of such principles and consistently applied throughout the periods covered by the applicable financial statements.

“General Partner” shall mean, collectively, (i) [Columbia Heights Leased Housing Associates III, LLC], a Minnesota limited liability company, or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender’s approval pursuant to the Borrower Loan Documents), is selected to be a General Partner of the Borrower.

“Governmental Authority” means (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

“Governmental Lender” or “Issuer” means the City of Columbia Heights, Minnesota.

“Governmental Lender’s Closing Fee” means \$_____, representing one percent (1%) of the original aggregate principal amount of the Funding Notes. The Governmental Lender’s Closing Fee is payable to the Governmental Lender on the Closing Date pursuant to Section 2.3(c)(iii).

“Gross Income” means all receipts, revenues, income and other money received or collected by or on behalf of the Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by the Borrower in accordance with applicable law.

“Gross Proceeds” means, without duplication, the aggregate of:

(a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

[“Guarantor” means [Dominium Holdings I, LLC, and Dominium Holdings II, LLC], or any other Person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan. As to Dominium Holdings I, LLC, all references to “Guarantor” in Article VIII hereof (Defaults) apply only to the Conversion Date.]

[“Guaranty” means, collectively, (i) the Completion and Repayment Guaranty, of even date herewith, by Guarantor for the benefit of the Beneficiary Parties (as defined therein), and (ii) the Exceptions to Non Recourse Guaranty, of even date herewith, by [Dominium Holdings II, LLC] for the benefit of the Beneficiary Parties (as defined therein).]

“Improvements” means the multifamily housing facility comprised of 148 affordable rental apartments to be located in two four-story buildings, together with related common amenity spaces, including a fitness facility, a club room, and 134 underground parking spaces and an additional 88 surface parking spaces, to be located on the Land and known as the “Grand Central Flats,” or another name selected by the Borrower, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be constructed and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

“Indemnified Party” has the meaning set forth in Section 5.15.

“Interest Rate” means with respect to the Funding Notes the rate of interest accruing on such Funding Notes.

“Interim Phase Amount” means \$ _____ with respect to the Series A Funding Note, and \$ _____ with respect to the Series B Funding Note.

“Land” means the real property described on Exhibit A to the Security Instrument.

“Late Charge” means the amount due and payable as a late charge on overdue payments under the Funding Notes, as provided in the Funding Notes and in this Borrower Loan Agreement.

“Legal Action” means an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“Legal Requirements” means statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or the construction, rehabilitation, equipping, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

“Liabilities” has the meaning set forth in Section 5.15.

“Licenses” has the meaning set forth in Section 4.1.22.

“Lien” means any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“Management Agreement” means the Management Agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Manager” means the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

“Material Adverse Change” means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations or prospects of the Borrower, the General Partner, the Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, the General Partner or the Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender or the Fiscal Agent under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of the Governmental Lender or the Fiscal Agent or, upon the assignment of the

Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

“Mortgaged Property” has the meaning given to that term in the Security Instrument.

“Net Operating Income” means: (i) the Gross Income, less (ii) the Expenses of the Project.

“Nonpurpose Investment” means any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

“Other Borrower Money” means money of the Borrower other than Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, Net Operating Income, the Borrower’s Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Project.

“Other Charges” means all maintenance charges, impositions other than Taxes, and any other charges, including but not limited to vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Outside Conversion Date” has the meaning set forth in the Construction Funding Agreement.

“Partnership Agreement” means that certain [Amended and Restated] Limited Partnership Agreement of the Borrower, dated as of December 1, 2017, as the same may be amended, modified, supplemented or restated in accordance with its terms.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“Patriot Act Offense” has the meaning set forth in Section 4.1.48.

“Permanent Period” means the period of time from the Conversion Date to the Maturity Date (as defined in the Funding Loan Agreement).

“Permanent Period Amount” means the principal amount of the Borrower Loan following the calculation provided for in the Construction Funding Agreement.

“Permitted Encumbrances” has the meaning given to that term in the Security Instrument.

“Permitted Lease” means a lease and occupancy agreement pursuant to the form approved by the Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months or more than two (2) years.

“Person” means a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“Plan” means (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make

contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“Plans and Specifications” means the plans and specifications for the construction and equipping of the Project approved by the Funding Lender.

“Potential Default” means the occurrence of an event which, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice or passage of time, or both, be an Event of Default.

“Prepayment Premium” means any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of a Borrower Note (including any prepayment premium as set forth in such Borrower Note).

“Project” means the Mortgaged Property (as defined in the Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to therein as the “Mortgaged Property.”

“Project Agreements and Licenses” means any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Mortgaged Property.

“Provided Information” has the meaning set forth in Section 9.1.1(a).

“Purchase Option Agreement” means that certain agreement by and between the Borrower and the General Partner, as consented to by the Equity Investor, the Special Limited Partner, and the Class B SLP, dated as of December 1, 2017.

“Put Option Agreement” means that certain agreement by and between the Borrower, the General Partner, the Equity Investor, and the Special Limited Partner, and consented to by the Class B SLP, dated as of December 1, 2017.

“Qualified Project Costs” means costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to a capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Regulations, provided, however, that only such portion of the interest accrued during the construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by a Borrower Affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing the Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such affiliate, and (C) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an “affiliated group” (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project

or projects within the meaning of Section 142(d) of the Code; (iii) the costs are paid after the earlier of 60 days prior to June 26, 2017, being the date on which the Governmental Lender first declared its “official intent” to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Regulations) or the date of issue of the Funding Loan, and (iv) if the costs of the acquisition and construction of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan, such costs were (A) “preliminary expenditures” (within the meaning of Section 1.150-2(f)(2) of the Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Funding Loan (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditures is paid); provided, however, that (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a “related person” to the Borrower) shall not constitute Qualified Project Costs.

“Rebate Amount” means, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” means the rebate analyst selected by the Borrower and acceptable to the Funding Lender. The initial Rebate Analyst shall be The Arbitrage Group, Inc.

“Rebate Analyst’s Fee” means the amount payable on the date of each calculation by the Rebate Analyst.

“Rebate Fund” means the Rebate Fund, created under Section 7.7 of the Funding Loan Agreement, to which the Rebate Amount is required to be deposited pursuant to Section 5.36(b) hereof.

“Regulations” means applicable proposed, temporary and final regulations promulgated as the U.S. Treasury Regulations under Section 148 of the Code, as they may be amended and supplemented from time to time, as well as applicable official public guidance published under the Code.

“Related Documents” means, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), the Partnership Agreement, and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement.

“Replacement Reserve Agreement” means any Replacement Reserve Agreement between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

“Replacement Reserve Fund Requirement” means the Borrower’s funding obligations from time to time under the Replacement Reserve Agreement.

“Repurchase Option Agreement” means that certain agreement by and among the Borrower, the Equity Investor, the Special Limited Partner, the General Partner, the Class B SLP, Columbia Heights Leased Housing Development I, LLC, a Minnesota limited liability company, as developer, and the Guarantor, dated as of December 1, 2017.

“Retainage” shall have the meaning set forth in the Construction Funding Agreement.

“Review Fee” shall mean the fee payable to Funding Lender in the amount of _____ (\$_____) in connection with the review of requests from the Borrower in connection with events requiring the consent and/or approval of the Funding Lender, including, but not limited to, subordinate financings and easements.

“Secondary Market Disclosure Document” has the meaning set forth in Section 9.1.2.

“Secondary Market Transaction” has the meaning set forth in Section 9.1.1.

“Securities” has the meaning set forth in Section 9.1.1.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Documents” means the Security Instrument, the Replacement Reserve Agreement, the Collateral Agreements and the Collateral Assignments (as such terms are defined in the Security Instrument), this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments that Funding Lender may reasonably request.

“Security Instrument” means the Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, of even date herewith, as amended, restated and supplemented from time to time, in favor of the Governmental Lender and assigned to the Funding Lender to secure the Funding Loan, and encumbering the Project.

“Series A Funding Note” means the Governmental Lender’s Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017A, in the original aggregate principal amount of \$[Series A Par].

“Series B Funding Note” means the Governmental Lender’s Taxable Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017B, in the original aggregate principal amount of \$[Series B Par].

“Servicer” means the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be Citibank, N.A.

“Special Limited Partner” shall mean [Transamerica Affordable Housing, Inc., a California corporation], its permitted successors and assigns.

“State” shall mean the State of Minnesota.

“Substantial Completion Date” means the date that is three months prior to the Completion Date.

“Substantially Complete” or “Substantially Completed” means the Funding Lender has determined that construction and equipping of the Improvements is sufficiently complete such that the Improvements can be occupied by tenants as a multifamily residential rental project.

“Tax Counsel” has the meaning set forth in the Funding Loan Agreement.

“Taxes” means all real estate and personal property taxes, assessments, water rates or sewer rates, now or hereafter levied or assessed or imposed against all or part of the Project.

“Term” means the term of this Borrower Loan Agreement pursuant to Section 10.14.

“Title Company” means _____, _____, Minnesota.

“Title Insurance Policy” means the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

“Transfer” has the meaning given to that term in the Security Instrument.

“UCC” means the Uniform Commercial Code as in effect in the State.

“Unit” means a residential apartment unit within the Improvements.

“Written Consent” and “Written Notice” means a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

ARTICLE II GENERAL

Section 2.1 Origination of Borrower Loan In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, pursuant to the Act, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Fiscal Agent in accordance with the terms of the Construction Funding Agreement, this Borrower Loan Agreement and the Funding Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to the Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate the Servicer to fulfill the rights and responsibilities granted by the Governmental Lender to the Funding Lender pursuant to this Section 2.1.

Section 2.2 Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Notes and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument), and (b) the amounts on deposit from time to time in any and all funds established under the Funding Loan Agreement other than the Rebate Fund and Expense Fund created and established thereunder. All revenues and assets pledged and assigned thereby shall immediately be

subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Notes, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights (as defined in the Funding Loan Agreement), subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) *Tax Covenant.* Seek specific performance of, and enforce, the tax covenants of the Funding Loan Agreement, the Regulatory Agreement, the Tax Agreement and the Borrower Loan Agreement, injunctive relief against acts which may be in violation of any of the tax covenants, and enforce the Borrower's obligation to pay amounts for credit to the Rebate Fund;

(ii) *Regulatory Agreement.* Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (defined below), if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) *Reserved Rights.* Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless the Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute its action to a lien on the Project;

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future;

(iii) interfere with the exercise by the Fiscal Agent, the Funding Lender or the Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section 2.2, the term “Excess Revenues” means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due, including but not limited to, the Subordinate Loans, during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to separate agreement, but excluding depreciation and amortization of intangibles.

Section 2.3 Loan; Conditions to Closing.

(a) The Funding Loan shall be funded by deposits to the Funding Loan Proceeds Account in the Project Fund under the Funding Loan Agreement by the Funding Lender upon satisfaction of the conditions set forth in the Construction Funding Agreement, in one or more installments not to exceed the Borrower Loan Amount in accordance with the disbursement procedures set forth in the Construction Funding Agreement and the Funding Loan Agreement. Upon funding of each installment of the Funding Loan, the Governmental Lender shall be deemed to have made the Borrower Loan to the Borrower in an equal principal amount. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Notes. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition, construction, development, equipping and/or operation of the Project and costs and expenses incidental thereto. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, the Borrower hereby agrees to execute and deliver the Borrower Notes simultaneously with the delivery of this Borrower Loan Agreement to the Governmental Lender. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Notes.

(c) Closing of the Borrower Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in their sole discretion, of each of the conditions precedent to closing set forth in the Funding Loan Agreement and this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from the Funding Lender’s counsel or such other counsel as may be acceptable to the Funding Lender);

(ii) delivery to the Fiscal Agent or into escrow with the Title Company (or a separate escrow company, if applicable) one Business Day prior to the Closing Date of all amounts

required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender; and

(iii) payment of all fees payable in connection with the closing of the Borrower Loan, including the Governmental Lender's Closing Fee.

Section 2.4 Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the payment schedule of the Borrower Notes. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Fiscal Agent by 11:00 a.m., New York City time, on each Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent for deposit to the Funding Loan Payment Fund for application as provided in the Funding Loan Agreement. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the payment schedule of the Funding Notes in the amounts and at the times necessary to enable the Governmental Lender to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) Reserved.

Section 2.5 Additional Borrower Payments.

(a) The Borrower shall pay the following additional amounts:

(i) to the Servicer or the Fiscal Agent, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 6.36 hereof and the Rebate Analyst's Fee to the Expense Fund and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Fiscal Agent, all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Fiscal Agent and the Governmental Lender incurred under the Borrower Loan Documents or the Funding Loan Documents, as and when the same become due;

(iii) Reserved;

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, on demand, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, any Review Fee, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses

relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(vi) any Late Charge due and payable under the terms of the Borrower Notes and Section 2.6; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender; and

(vii) to the Fiscal Agent, all fees, charges, costs, advances, indemnities and expenses, including reasonable agent and counsel fees, of the Fiscal Agent incurred under the Borrower Loan Documents or the Funding Loan Documents as and when the same become due.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, the Tax Agreement or any other Funding Loan Document by the Governmental Lender, Funding Lender, Fiscal Agent or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer or the Construction Consultant, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6 Overdue Payments; Payments in Default If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the party to whom such payment is required to be made, a Late Charge in the amount and to the extent set forth in the Borrower Notes, if any.

Section 2.7 Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender in accordance with the Funding Notes; (b) any required deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or, if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall reasonably determine at any time that the Borrower has not satisfied all Replacement Reserve Fund Requirements as of the date then due, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

Section 2.8 Grant of Security Interest; Application of Funds To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in all the Borrower's right, title and interest in and to all

payments to or money held in the funds and accounts (other than the Rebate Fund and the Expense Fund) created and held by the Fiscal Agent, the Funding Lender or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Fiscal Agent, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Fiscal Agent (other than sums held in the Rebate Fund and the Expense Fund), the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by the Funding Lender, in the Funding Lender's sole and absolute discretion.

Section 2.9 Marshalling; Payments Set Aside The Governmental Lender, the Fiscal Agent and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Governmental Lender or the Funding Lender, or the Governmental Lender, the Fiscal Agent or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender, the Fiscal Agent or the Funding Lender and any and all remedies available to the Governmental Lender, the Fiscal Agent or the Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, the Guarantor or the General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender, the Fiscal Agent and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender, Fiscal Agent or the Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender, the Fiscal Agent or the Funding Lender in connection with the exercise by the Governmental Lender, the Fiscal Agent or the Funding Lender of its rights under this Section 2.9.

Section 2.10 Borrower Loan Disbursements The Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Funding Agreement by depositing Funding Loan proceeds with the Fiscal Agent under the Funding Loan Agreement. Amounts held by the Fiscal Agent shall be disbursed to or for the benefit of the Borrower as provided in the Funding Loan Agreement and subject to satisfaction of the conditions set forth in the Construction Funding Agreement.

ARTICLE III CONVERSION

Section 3.1 Conversion Date and Extension of Outside Conversion Date The Borrower shall satisfy each of the Conditions to Conversion and cause the Conversion Date to occur on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if any), as further provided in the Construction Funding Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if applicable) shall constitute an Event of Default under the Borrower Loan Documents.

Section 3.2 Notice From Funding Lender; Funding Lender's Calculation Final.

(a) Following satisfaction of all of the Conditions to Conversion, the Funding Lender shall deliver Written Notice to the Borrower of: (i) the Conversion Date; (ii) the amount of the Permanent Period Amount; (iii) any required prepayment of the Borrower Loan (as described below in Section 3.3); and (iv) any amendments to the amortization schedule, as applicable.

(b) The Funding Lender's calculation of the Permanent Period Amount and any amendments to the amortization of the Borrower Loan shall be, in the absence of manifest error, conclusive and binding on all parties.

Section 3.3 Mandatory Prepayment of the Borrower Loan.

(a) As further provided in the Construction Funding Agreement, if and to the extent the Permanent Period Amount is less than the Interim Phase Amount, the Funding Lender may in its sole discretion require the Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Interim Phase Amount and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment"), provided, however, that if the Permanent Period Amount is less than the Minimum Permanent Period Amount (as defined in the Construction Funding Agreement), then the Funding Lender may in its sole discretion require the Borrower to prepay the Borrower Loan in full.

(b) Any prepayment in full or in part of the Borrower Loan required pursuant to Section 3.3(a) above shall be subject to a prepayment premium under certain circumstances as more particularly set forth in the Borrower Notes.

Section 3.4 Release of Remaining Loan Proceeds If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to the Borrower, the Funding Lender shall deliver Written Notice thereof to the Borrower on or before the Conversion Date. Within ten (10) business days after delivery of such notice, but in no event later than the Outside Conversion Date, the Funding Lender shall disburse Borrower Loan proceeds to the Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by the Borrower to the Fiscal Agent for the account of the Funding Lender.

Section 3.5 No Amendment Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Notes, the Security Instrument, the Construction Funding Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Notes, the Security Instrument, the Construction Funding Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Notes, the Security Instrument, the Construction Funding Agreement and other Borrower Loan Documents shall control, provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6 Determinations by Funding Lender Unless otherwise stated, in any instance where the consent or approval of the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Funding Lender under this Article III, including in connection with the Construction Funding Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or

exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion except as otherwise provided herein.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 4.1 Borrower Representations To induce the Governmental Lender, the Fiscal Agent and the Funding Lender to execute this Borrower Loan Agreement and to induce the Funding Lender to make Disbursements, the Borrower represents and warrants, for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and will be complete and accurate, and deemed remade, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Conversion Date in accordance with the terms and conditions of the Borrower Notes.

Section 4.1.1 Organization; Special Purpose The Borrower is a Minnesota limited liability limited partnership in good standing under the laws of the State, has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by limited partnership action, has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

Section 4.1.2 Proceedings; Enforceability Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

Section 4.1.3 No Conflicts The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

Section 4.1.4 Litigation; Adverse Facts There is no Legal Action, nor is there a basis known to the Borrower for any Legal Action, before or by any court or federal, state, municipal or other

governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened in writing, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of the Borrower, the General Partner or the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of the Borrower, the General Partner and the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; or (c) in default with respect to any agreement to which the Borrower, the General Partner or the Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, the General Partner or the Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

Section 4.1.5 Agreements; Consents; Approvals Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. To the best knowledge of the Borrower after due inquiry and investigation, the Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection

with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

Section 4.1.6 Title The Borrower shall have marketable title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

Section 4.1.7 Survey To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

Section 4.1.8 No Bankruptcy Filing The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

Section 4.1.9 Full and Accurate Disclosure No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

Section 4.1.10 No Plan Assets The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

Section 4.1.11 Compliance The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Document.

Section 4.1.12 Contracts All service, maintenance or repair contracts affecting the Project have been entered into at arm's length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

Section 4.1.13 Financial Information All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

Section 4.1.14 Condemnation No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

Section 4.1.15 Federal Reserve Regulations No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

Section 4.1.16 Utilities and Public Access To the best of the Borrower's knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

Section 4.1.17 Not a Foreign Person The Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Code.

Section 4.1.18 Separate Lots Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

Section 4.1.19 Assessments There are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

Section 4.1.20 Enforceability The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

Section 4.1.21 Insurance The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

Section 4.1.22 Use of Property; Licenses The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, which uses are consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the "Licenses") required at this time for the construction and equipping of the Project have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. To the best knowledge of the Borrower after due inquiry and investigation, no Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of the Project.

Section 4.1.23 Flood Zone As of the Closing Date, no structure within the Mortgaged Property lies or is located in an identifiable or designated Special Flood Hazard Area. Subsequent to the Closing Date, if the Borrower is informed the Mortgaged Property is determined to be in a Special Flood Hazard Area, the Borrower will obtain appropriate flood insurance as required under the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994, as amended or as required by the Servicer pursuant to its underwriting guidelines.

Section 4.1.24 Physical Condition The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are, or, after completion of construction, will be, in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The planned physical configuration and design of the Project is not in material violation of the ADA (defined below), if required under applicable law.

Section 4.1.25 Encroachments All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value

or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

Section 4.1.26 State Law Requirements The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable state laws relating to the Borrower Loan, the Funding Loan and the Project.

Section 4.1.27 Filing and Recording Taxes All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

Section 4.1.28 Investment Company Act The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended, or (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

Section 4.1.29 Fraudulent Transfer The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

Section 4.1.30 Ownership of the Borrower Except as set forth in the Partnership Agreement of the Borrower and the Purchase Option Agreement, the Put Option Agreement and the Repurchase Option Agreement, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in the Borrower.

Section 4.1.31 Environmental Matters To the best of the Borrower’s knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning any environmental regulation, contamination or clean-up, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification.

Section 4.1.32 Name; Principal Place of Business Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1, and the Borrower has no other place of business, other than the Project and such principal place of business.

Section 4.1.33 Subordinated Debt There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted secured indebtedness described in Section 5.7 hereof, except (i) [an equity bridge loan extended to the Borrower from _____, a _____, (ii)] an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date, and (iii) any unsecured loans payable solely from cash flow made by a partner of the Borrower as set forth in the Partnership Agreement.

Section 4.1.34 Filing of Taxes The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

Section 4.1.35 General Tax All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Agreement are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 4.1.36 Approval of Loan Documents By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in any manner.

Section 4.1.37 Funding Loan Agreement The Borrower has read and accepts and agrees that it is bound by the provisions of the Funding Loan Agreement and the Funding Loan Documents applicable to the Borrower.

Section 4.1.38 Americans with Disabilities Act The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 (“ADA”), to the extent required (as evidenced by an Architect’s certificate to such effect).

Section 4.1.39 Requirements of Act, Code and Regulations The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

Section 4.1.40 Regulatory Agreement The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such

requirements are applicable; and the Borrower intends to cause the residential Units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act, the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

Section 4.1.41 Intention to Hold Project The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it (except for rights granted in the Partnership Agreement or Purchase Option Agreement); and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 4.1.42 Concerning General Partner

(a) The General Partner is a limited liability company, duly organized and validly existing under the laws of the State of Minnesota. The General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by the General Partner for its own account and on behalf of Borrower, as manager of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of the General Partner.

(c) The General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by the Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of the General Partner on behalf of the Borrower, and by all necessary action on behalf of the General Partner.

(e) The execution, delivery and performance by the General Partner, on behalf of the Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) the General Partner's organizational documents; (ii) any other Legal Requirement affecting the General Partner or any of its properties; or (iii) any agreement to which the General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to the Funding Lender pursuant to the Security Documents.

Section 4.1.43 Government and Private Approvals All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, rehabilitation, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the construction and equipping of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in

the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction and equipping of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by the Borrower or the General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

Section 4.1.44 [Concerning the Guarantor] The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by the Guarantor and are legally valid and binding obligations of the Guarantor, enforceable against the Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.]

Section 4.1.45 No Material Defaults Except as previously disclosed to the Funding Lender in writing, there exists no material violation of or material default by the Borrower under, and, to the best knowledge of the Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which the Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which the Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which the Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of the Borrower, the General Partner or the Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

Section 4.1.46 Payment of Taxes Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of the Borrower, the General Partner or the Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon the Borrower, the General Partner or the Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, and neither the Borrower nor the General Partner have contracted with any Governmental Authority in connection with such taxes.

Section 4.1.47 Rights to Project Agreements and Licenses The Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. The Borrower's interest in the Plans and Specifications and all Project

Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by the Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

Section 4.1.48 Patriot Act Compliance The Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a Person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC (as defined below) or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term “Patriot Act Offense” means any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) the Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. “Patriot Act Offense” also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term “Government Lists” means (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control (“OFAC”), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that the Funding Lender notified the Borrower in writing is now included in “Government Lists,” or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America that the Funding Lender notified the Borrower in writing is now included in “Government Lists.”

Section 4.1.49 Rent Schedule The Borrower has prepared a prospective Unit absorption and rent collection schedule with respect to the Project substantially in the form attached as an exhibit to the Construction Funding Agreement, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and (ii) any and all concessions including free rent periods. On the basis of such schedule, the Borrower believes it will collect rents with respect to the Project in amounts greater than or equal to debt service on the Borrower Loan.

Section 4.1.50 Other Documents Each of the representations and warranties of the Borrower or the General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of the Funding Lender.

Section 4.2 Survival of Representations and Covenants All of the representations and warranties in Section 4.1 and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender, the Fiscal Agent, the Funding Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1.

ARTICLE V
AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender, the Fiscal Agent, and the Servicer that:

Section 5.1 Existence The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2 Taxes and Other Charges The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all taxes and Other Charges of any type or character charged to the Funding Lender affecting the amount available to the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3 Repairs; Maintenance and Compliance; Physical Condition The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4 Litigation The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

Section 5.5 Performance of Other Agreements The Borrower shall remain in compliance in all material respects with each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project where any non-compliance could have a material adverse effect on the ability of the Borrower to perform its obligations under the Borrower Loan Agreement and other Borrower Loan Documents.

Section 5.6 Notices The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two Business Days of such filing.

Section 5.7 Cooperate in Legal Proceedings The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer at their option, to participate in any proceedings before any Governmental Authority that may in any way adversely affect the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

Section 5.8 Further Assurances The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys, certificates, plans and specifications, appraisals, title and other insurance reports and agreements, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, (ii) execute and deliver to the Servicer, the Fiscal Agent and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer, the Fiscal Agent and the Funding Lender may reasonably require from time to time, (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer, the Fiscal Agent or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater liability under the Borrower Loan Documents and the Funding Loan Documents, and (iv) upon the Servicer's, the Fiscal Agent's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted by search firms reasonably designated by the Servicer or the Funding Lender in each of the locations reasonably designated by the Servicer or the Funding Lender.

Section 5.9 Delivery of Financial Information After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under this Borrower Loan Agreement.

Section 5.10 Environmental Matters So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender, the Fiscal Agent, the Governmental Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary

with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11 Governmental Lender's, Fiscal Agent's and Funding Lender's Fees The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender, the Fiscal Agent and the Funding Lender or any agents, attorneys, accountants, or consultants selected by the Governmental Lender, the Fiscal Agent or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.12 Estoppel Statement The Borrower shall furnish to the Funding Lender or the Servicer for the benefit of the Funding Lender or the Servicer, within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) that the Borrower Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Borrower Loan Documents are in full force and effect as modified and setting forth such modifications); (ii) the unpaid principal balance of the Note and the applicable Interest Rate; (iii) the date to which interest and/or principal under the Note has last been paid, (iv) the Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Instrument or any of the other Borrower Loan Documents (or, if Borrower is in default, describing such default in reasonable detail); (v) whether or not there are then existing any setoffs of defenses known to Borrower against the enforcement of any right or remedy of Funding Lender under the Borrower Loan Documents; and (vi) any enforcement of any right or remedy of Lender under the Borrower Loan Documents; and (vi) any additional facts requested by the Funding Lender, the Fiscal Agent or the Servicer.

Section 5.13 Defense of Actions The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4, all costs and expenses, including the cost of evidence of title and reasonable attorneys' fees, in any such action or proceeding in which the Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of the Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or

that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender is made a party, or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including reasonable attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14 Expenses The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided in Section 9.1) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Fiscal Agent's, the Funding Lender's and the Servicer's attorneys and environmental, engineering and other consultants, and the fees, charges or taxes for the recording or filing of the Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer (except as provided in Section 9.1) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer to collect payments on any of the Borrower Notes, or to enforce the rights of the Governmental Lender, the Fiscal Agent, the Funding Lender, the Fiscal Agent and the Servicer under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by Section 18(i) of the Security Instrument.

Section 5.15 Indemnity In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of the Governmental Lender, the Fiscal Agent or the Funding Lender pursuant hereto and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, the Beneficiary Parties, Citigroup, Inc. and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court

costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the “Liabilities”) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any of the Borrower’s obligations under Article IX);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, construction, installation or rehabilitation of, the Project, the Improvements, or any part thereof;

(c) Any lien (other than a Permitted Encumbrance) or charge upon payments by the Borrower to the Governmental Lender, the Fiscal Agent or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender, the Fiscal Agent or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender, the Fiscal Agent or the Funding Lender related to remedies under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) [Reserved];

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of the Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by the Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written representation, presentation, report, appraisal or other information given or delivered by the Borrower, General Partner, Guarantor or their Affiliates to the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer or any other Person in connection with the Borrower’s application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by the Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) Any failure (or alleged failure) by the Borrower, the Funding Lender or the Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) The Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction or rehabilitation of, the Project, the Improvements or any part thereof; or

(l) The use of the proceeds of the Borrower Loan and the Funding Loan, except in the case of the foregoing indemnification of the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in this Section 5.15 with respect to any securitization or Secondary Market Transaction described in Article IX shall be limited to the indemnity set forth in this Section 5.15. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section shall survive the termination of this Borrower Loan Agreement.

Section 5.16 No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 5.17 Right of Access to the Project Subject to the rights of tenants, the Borrower agrees that the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Construction Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be

permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 5.18 Notice of Default The Borrower will advise the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer promptly in writing of the occurrence of any Potential Default hereunder of which it has actual knowledge, or any Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.19 Covenants with Governmental Lender, the Fiscal Agent and the Funding Lender The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Funding Notes and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent and any lawful owner, holder or pledgee of the Borrower Notes or the Funding Notes from time to time.

Section 5.20 Effective Provisions In connection with the issuance of the Funding Notes and the making of the Borrower Loan certain money will be deposited with the Fiscal Agent on or before the Closing Date pursuant to one or more letters of instruction from the provider or providers of such money. Such money will be held by the Fiscal Agent subject to the terms and conditions of the Funding Loan Agreement in addition to terms provided in such letter(s) of instruction. For such purpose the standards of care, provisions regarding responsibilities and indemnification and other sections relating to the Fiscal Agent contained in the Funding Loan Agreement and this Borrower Loan Agreement (the “Effective Provisions”) shall be effective as of the first date of receipt by the Fiscal Agent of such moneys. The Effective Provisions shall be deemed incorporated into such letter(s) of instructions.

Section 5.21 Obligation of the Borrower to Construct or Rehabilitate the Project The Borrower shall proceed with reasonable dispatch to construct and equip the Project. If the proceeds of the Borrower Loan, together with the Other Borrower Money, available to be disbursed to the Borrower are not sufficient to pay the costs of such construction and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender, the Fiscal Agent and the Funding Lender do not make any representation or warranty, either express or implied, that money, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.22 Maintenance of Insurance The Borrower will maintain the insurance required by the Security Instrument, and shall evidence the same by certificates of insurance deposited from time to time with the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer.

Section 5.23 Information; Statements and Reports The Borrower shall furnish or cause to be furnished to the Governmental Lender and the Funding Lender:

(a) *Notice of Default.* As soon as possible, and in any event not later than five Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized

Borrower Representative describing the details of such Event of Default or Potential Default and any curative action the Borrower proposes to take;

(b) *Financial Statements; Rent Rolls.* In the manner and to the extent required under the Security Instrument, such financial statements, expense statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(c) *General Partner.* As soon as available and in any event within 120 days after the end of each fiscal year of the General Partner, copies of the financial statements of the General Partner as of such date, prepared in substantially the form previously delivered to the Funding Lender and in a manner consistent therewith, or in such form as the Funding Lender may reasonably request;

(d) *Leasing Reports.* Prior to the Conversion Date, on a monthly basis (and in any event within 15 days after the end of each Calendar Month), a report of all efforts made by the Borrower, if any, to lease all or any portion of the Project during such Calendar Month and on a cumulative basis since Project inception, which report shall be prepared and delivered by the Borrower, shall be in form and substance satisfactory to the Funding Lender, and shall, if requested by the Funding Lender, be supported by copies of letters of intent, leases or occupancy agreements, as applicable;

(e) *Audit Reports.* Promptly upon receipt thereof, copies of all reports, if any, submitted to the Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of the Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(f) *Notices; Certificates or Communications.* Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to the Borrower or the General Partner naming the Governmental Lender or the Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) *Certification of Non-Foreign Status.* Promptly upon request of the Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by the Funding Lender;

(h) *Compliance Certificates.* A statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that the Borrower is in compliance with all covenants, terms and conditions applicable to the Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by the Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of the Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(i) *Other Items and Information.* Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of the Borrower, the General Partner, the Guarantor or the Project, as the Funding Lender or the Governmental Lender reasonably requests from time to time.

Section 5.24 Additional Notices The Borrower will, promptly after becoming aware thereof, give notice to the Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement or as a Permitted Encumbrance;

(b) any Legal Action which is instituted by or against the Borrower, the General Partner or the Guarantor, or any Legal Action which is threatened against the Borrower, the General Partner or the Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of the Borrower, the General Partner, the Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which the Borrower, the General Partner or the Guarantor is a party or by or to which the Borrower, the General Partner or the Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable;

(d) any default, or any alleged default or potential default for which the Borrower has knowledge, on the part of the Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of the Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by the Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of the Borrower's or the General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by the Borrower or the General Partner; or (iii) the nature of the trade or business of the Borrower; and

(g) any default, or any alleged default or potential default for which the Borrower has knowledge, on the part of any manager or General Partner (including, without limitation, the General Partner and the Equity Investor) under the Partnership Agreement.

Section 5.25 Compliance with Other Agreements; Legal Requirements

(a) The Borrower shall timely perform and comply with, and shall cause the General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and the Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) The Borrower will comply and use best efforts to require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction and equipping of the Improvements, and will furnish the Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities that are in Borrower's possession or control. The Borrower will comply and use best efforts to require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building,

zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Upon the occurrence and continuation of any Event of Default or Potential Default or to the extent that the Borrower has not supplied requested information from the Funding Lender relating to compliance with income set-aside requirements, the Funding Lender shall at all times have the right to audit, at the Borrower's expense, the Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and the Borrower shall supply all such information with respect thereto as Funding Lender may request and otherwise cooperate with the Funding Lender in any such audit. Without limiting the generality of the foregoing, the Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to the Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

Section 5.26 Completion and Maintenance of Project The Borrower shall cause the construction and equipping of the Improvements to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Funding Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under this Borrower Loan Agreement) ("Completion") on or before the Completion Date. The Borrower shall thereafter maintain the Project as a residential rental apartment building in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

Section 5.27 Fixtures The Borrower shall deliver to the Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which the Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.28 Income from Project The Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, the Borrower shall not make or permit any distributions or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of the Funding Lender, except for payment of the Developer Fee pursuant to Section 6.13.

Section 5.29 Leases and Occupancy Agreements

(a) *Lease Approval.*

The Borrower has submitted to the Funding Lender, and the Funding Lender has approved, the Borrower's standard form of tenant lease for use in the Improvements. The Borrower shall not materially modify that approved lease form without the Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. The Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without the Funding Lender's prior Written Consent if:

- (A) The lease is a Permitted Lease, and is executed in the form attached as an exhibit to the Construction Funding Agreement without material modification;

(B) The Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to the Construction Funding Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

If any Event of Default has occurred and is continuing, the Funding Lender may make written demand on the Borrower to submit all future leases for the Funding Lender's approval prior to execution. The Borrower shall comply with any such demand by the Funding Lender.

No approval of any lease by the Funding Lender shall be for any purpose other than to protect the Funding Lender's security for the Borrower Loan and to preserve the Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by the Funding Lender shall result in a waiver of any default of the Borrower. In no event shall any approval by the Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) *Landlord's Obligations.* The Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) *Leasing and Marketing Agreements.* Except as may be contemplated in the Management Agreement with the Borrower's Manager, the Borrower shall not, without the approval of the Funding Lender, enter into any leasing or marketing agreement. The Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 5.30 Project Agreements and Licenses To the extent not heretofore delivered to the Funding Lender, the Borrower will furnish to the Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to the Funding Lender and consents to such assignments where required by the Funding Lender, all in form and substance acceptable to the Funding Lender. Neither the Borrower nor the General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to the Funding Lender.

Section 5.31 Payment of Debt Payments In addition to its obligations under the Borrower Loan Documents (including, without limitation, the Borrower Notes), the Borrower will: (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of the Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform the Funding Lender of any default, or anticipated default, under any such note, agreement, or instrument; and (iv) forward to the Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, or instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.32 ERISA The Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.33 Patriot Act Compliance The Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over the Borrower or the Project, including those relating to money laundering and terrorism. The Funding Lender shall have the right to audit the Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over the Borrower or the Project, including those relating to money laundering and terrorism. In the event that the Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then the Funding Lender may, at its option, cause the Borrower to comply therewith and any and all costs and expenses incurred by the Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

The Borrower covenants that it shall comply with all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect. Without limiting the foregoing, Borrower shall not take any action, or permit any action to be taken, that would cause the Borrower's representations and warranties in this Article V to become untrue or inaccurate at any time during the term of the Funding Loan. Upon any Beneficiary Party's request from time to time during the term of the Funding Loan, Borrower shall certify in writing to such Beneficiary Party that Borrower's representations, warranties and obligations under Article V remain true and correct and have not been breached, and in addition, upon request of any Beneficiary Party, Borrower covenants to provide all information required to satisfy obligations under all Legal Requirements and internal requirements of the Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, during the term of the Funding Loan. The Borrower shall immediately notify the Funding Lender in writing of (a) the Borrower's actual knowledge that any of such representations, warranties or covenants are no longer true and have been breached, (b) the Borrower has a reasonable basis to believe that they may no longer be true and have been breached, or (c) the Borrower becomes the subject of an investigation by Governmental Authorities related to money laundering, anti-terrorism, trade embargos and economic sanctions. The Borrower shall also reimburse the Funding Lender for any expense incurred by the Funding Lender in evaluating the effect of an investigation by Governmental Authorities on the Funding Loan and the Funding Lender's interest in the collateral for the Funding Loan, in obtaining necessary licenses from Governmental Authorities as may be necessary for the Funding Lender to enforce its rights under the Funding Loan Documents, and in complying with all Legal Requirements and internal requirements of the Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect applicable to the Funding Lender as a result of the existence of such an event and for any penalties or fines imposed upon the Funding Lender as a result thereof.

Section 5.34 Funds from Equity Investor The Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms, conditions and adjustments of the Partnership Agreement. The Borrower shall direct in writing and cause all Borrower Deferred Equity contributions made prior to the Conversion Date to be deposited by the Fiscal Agent into the Borrower Equity Account of the Project Fund (as defined in the Funding Loan Agreement).

Section 5.35 Tax Covenants The Borrower further represents, warrants and covenants as follows:

(a) *General.* The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Series A Funding Note from gross income (as defined in Section 61 of the Code) for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind

such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument, the Regulatory Agreement and the Tax Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Series A Funding Note or the Funding Loan or affecting the Project. Capitalized terms used in this Section shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Series A Funding Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion (other than with respect to interest on any portion of the Series A Funding Note for a period during which such portion of the Series A Funding Note is held by a “substantial user” of any facility financed with the proceeds of the Series A Funding Note or a “related person,” as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section.

(b) *Use of Proceeds.* The use of the net proceeds of the Funding Loan, derived from and allocable to only the Series A Funding Note, at all times will satisfy the following requirements:

(i) Limitation on Net Proceeds. At least ninety-five percent (95%) of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended shall be used to pay Qualified Project Costs that are costs of a “qualified residential rental project” (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Funding. The proceeds of the Funding Loan will be expended for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent (2%) of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding of the Funding Loan.

(iii) Prohibited Facilities. The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) Limitation on Land. Less than twenty-five percent (25%) of the net proceeds of the Funding Loan actually expended will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) Limitation on Existing Facilities. No portion of the net proceeds of the Funding Loan will be used for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed fifteen percent (15%) of the cost of acquiring such building financed with the proceeds of the Funding Loan (with respect to structures other than buildings, this clause shall be applied by substituting one hundred percent

(100%) for fifteen percent (15%)). For purposes of the preceding sentence, the term “rehabilitation expenditures” has the meaning set forth in Section 147(d)(3) of the Code.

(vi) Accuracy of Information. The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower’s information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Funding Loan.

(vii) Limitation of Project Expenditures. The acquisition, construction and equipping of the Project were not commenced prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on June 26, 2017, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date, except for permissible “preliminary expenditures”, which include architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs incurred prior to the commencement of acquisition or construction of the Project, in an amount not in excess of twenty percent (20%) of the aggregate issue price of the Series A Funding Note, and permissible “de minimis” expenses, in an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Series A Funding Note.

(viii) Qualified Costs. The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its members and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any Person, including without limitation, the Borrower, the members of the Borrower, any other affiliate of the Borrower or the holders or payees of the Funding Loan and the Funding Notes for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

(c) Limitation on Maturity. The average maturity of the Series A Funding Note does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the Net Proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) No Arbitrage. The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Series A Funding Note to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note related to the portion of the Funding Loan evidenced by the Series A Funding Note,

shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Funding Lender at all times from and after the Closing Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts, not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter and not later than forty-five days after the final Computation Date and agrees that the Borrower will pay all costs associated therewith. Unless the Borrower fails to appoint a Rebate Analyst and Fiscal Agent retains the services of a Rebate Analyst at the expense of the Borrower, the Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Funding Lender.

(e) *No Federal Guarantee.* Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Series A Funding Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) *Representations.* The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Series A Funding Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) *Qualified Residential Rental Project.* The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Series A Funding Note remains outstanding, to the extent that the interest on the Series A Funding Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) *Information Reporting Requirements.* The Borrower will assist the Governmental Lender to comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Series A Funding Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) *Funding Loan Not a Hedge Bond.* To the portion of the Funding Loan allocable to the Series A Funding Note, the Borrower covenants and agrees that not more than 50% of the proceeds of the Funding Loan will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Funding Loan will be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Closing Date.

(j) *Termination of Restrictions.* Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with its Term, the parties hereto recognize that pursuant to the Regulatory Agreement and the Tax Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the Term hereof.

(k) *Public Approval.* The Borrower covenants and agrees that the proceeds of the Funding Loan will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan. The public hearing was duly noticed and held by the governing body of the Governmental Lender on June 26, 2017.

(l) *40/60 Test Election.* The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) *Modification of Tax Covenants.* Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement, the Regulatory Agreement and the Tax Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Series A Funding Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Series A Funding Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender, per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement or the Tax Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if the Borrower defaults in the performance of its obligation under this Section; provided, however, that the Funding Lender shall take no action under this Section without first notifying the Borrower of its intention to take

such action and providing the Borrower a reasonable opportunity to comply with the requirements of this Section.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Regulations Section 1.148-1(b), it (or any related person contemplated by such Regulations) will not purchase interests in the Funding Loan in an amount related to the amount of the Borrower Loan.

Section 5.36 Payment of Rebate.

(a) The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Series A Funding Note in accordance with Section 148(f) of the Code and the Tax Agreement.

(b) The Fiscal Agent has established under Section 7.8 of the Funding Loan Agreement and shall hold a separate fund designated as the “Rebate Fund.” The Servicer shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Servicer by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(c) Within 15 days after each receipt or transfer of funds to the Rebate Fund and upon the written direction of the Borrower, the Fiscal Agent shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(d) All payments to the United States of America pursuant to this shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Servicer by the Borrower or the Rebate Analyst as set forth in this Section).

(e) The Borrower shall preserve all statements, forms and explanations received or delivered pursuant this Section and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan, derived from the Series A Funding Note.

(f) Money and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender, the Fiscal Agent or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

(g) Notwithstanding anything to the contrary in this Borrower Loan Agreement or the Tax Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender, the Fiscal Agent and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Series A Funding Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender, the Fiscal Agent and the Funding Lender with respect to such withdrawal.

(h) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel

No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender and the Fiscal Agent.

Section 5.37 Covenants under Funding Loan Agreement The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

Section 5.38 Continuing Disclosure Agreement The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in the Continuing Disclosure Agreement.

ARTICLE VI NEGATIVE COVENANTS

The Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. The Borrower covenants and agrees that it will not, directly or indirectly:

Section 6.1 Management Agreement Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2 Dissolution Dissolve or liquidate, in whole or in part, or merge with or consolidate into another Person.

Section 6.3 Change in Business or Operation of Property Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family residential rental property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction of the Project).

Section 6.4 Debt Cancellation Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 6.5 Assets Purchase or own any real property or personal property incidental thereto other than the Project.

Section 6.6 Transfers Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument, or transfer any material License required for the operation of the Project.

Section 6.7 Debt Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, and (iv) trade payables incurred in the ordinary course of business, (v) deferred developer fee, and (vi) unsecured loans payable solely from cash flow made by a partner of Borrower as set forth in the Partnership Agreement.

Section 6.8 Assignment of Rights Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 6.9 Principal Place of Business Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender, the Governmental Lender, the Fiscal Agent and the Servicer.

Section 6.10 Partnership Agreement Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) or as otherwise permitted under the Security Instrument, surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect, any of its rights or remedies under the Partnership Agreement; provided, however, the consent of the Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of the Borrower as defined in and permitted by the Security Instrument.

Section 6.11 ERISA Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12 No Hedging Arrangements Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 6.13 Loans and Investments; Distributions; Related Party Payments.

Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) except as set forth in the Put Option Agreement, Repurchase Option Agreement and Purchase Option Agreement, repurchase, redeem or otherwise acquire any interest in

Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in the Borrower, or make any distribution, in cash or in kind, in respect of interests in the Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 4.1.27).

Disbursements for fees and expenses of any Affiliate of Borrower and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the construction or rehabilitation, as the case may be, of the Improvements, as determined by the Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder, under the Construction Funding Agreement or otherwise by the Funding Lender, no Disbursements for the Developer Fee or any “deferred developer fees” shall be made prior to the Conversion Date.

Section 6.14 Amendment of Related Documents or CC&R’s Without the Funding Lender’s prior Written Consent in each instance, except as provided herein, enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R’s (including, without limitation, those contained in the Borrower Loan Agreement, any Architect’s Agreement or Engineer’s Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by _____), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15 Personal Property Without the Funding Lender’s prior Written Consent, install materials, personal property, equipment or fixtures in the Project subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than the Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in the Borrower at the time of installation; provided, however, that this Section shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16 Fiscal Year Without the Funding Lender’s prior Written Consent, which shall not be unreasonably withheld, change or permit the General Partner to change the times of commencement or termination of its fiscal year or other accounting periods, or change, or permit the General Partner to change, its methods of accounting, other than to conform to GAAP.

Section 6.17 Publicity Issue, or permit the General Partner to issue, any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify the Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of the Funding Lender in each instance (provided that nothing herein shall prevent the Borrower or the General Partner from identifying the Funding Lender or its Affiliates as the source of such financing to the extent that the Borrower or the General Partner are required to do so by disclosure requirements applicable to publicly held companies). The Borrower and the General Partner agree that no sign shall be posted on the Project in connection with the construction or rehabilitation of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or the Funding Lender consents to not being identified on any such sign.

Section 6.18 Subordinate Loan Documents Without the Funding Lender’s prior Written Consent, surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

**ARTICLE VII
RESERVED**

ARTICLE VIII DEFAULTS

Section 8.1 Events of Default Each of the following events shall constitute an “Event of Default” under this Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Notes, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Notes, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Notes, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined in the Borrower Notes, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an “Event of Default” is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a non-profit Borrower Controlling Entity, may be replaced within sixty (60) days of such event with another non-profit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) any portion of Borrower Deferred Equity to be made by Equity Investor and required for (i) completion of the construction of the Improvements, (ii) the satisfaction of the Conditions of Conversion or (iii) the operation of the Improvements, is not received in accordance with the Partnership Agreement after the expiration of all applicable notice and cure periods;

(h) the failure by Borrower or any ERISA Affiliate of the Borrower to comply in all respects with ERISA or the occurrence of any other event (with respect to the failure of the Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of,

or withdrawal of the Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA), the effect of which is to impose upon the Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of \$50,000;

(i) a Bankruptcy Event shall occur with respect to the Borrower, the General Partner or the Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor); or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(j) all or any part of the property of the Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to completion of the construction of the Improvements, within ten (10) days of the date thereof or (ii) after completion of the construction of the Improvements, within thirty (30) days of the date thereof;

(k) subject to Section 10.16, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting the Borrower, the General Partner or the Guarantor, or property of the Borrower, the General Partner or the Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by the Borrower, the General Partner or the Guarantor, as applicable, provided that any such material litigation or proceeding against the Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor); or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against the Borrower, the General Partner or the Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to completion of the construction of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine or penalty against the Guarantor shall not constitute an Event of Default: (i) if such judgment, decree,

fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor); or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against the Borrower, the General Partner or the Guarantor, or against any of their respective assets, that is not paid, superseded or stayed (i) prior to completion of the construction of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against the Borrower, the General Partner or the Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of the Borrower, the General Partner or the Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, for a period of ten (10) days or (ii) after completion of the construction of the Improvements, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against the Guarantor shall not constitute an Event of Default: (A) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor); or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(o) the inability of the Borrower to satisfy any condition for the receipt of a Disbursement (other than an Event of Default specifically addressed in this Section 8.1) and failure to resolve the situation to the satisfaction of Funding Lender for a period in excess of thirty (30) days after Written Notice from the Funding Lender unless such inability shall have been caused by Force Majeure (as defined in the Construction Funding Agreement);

(p) the construction of the Improvements is abandoned or halted prior to completion for any period of thirty (30) consecutive days unless such cessation of construction or rehabilitation shall have been caused by Force Majeure (as defined in the Construction Funding Agreement);

(q) the Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Mortgaged Property or the Project orders or requires that construction of the Improvements be

stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(r) failure by the Borrower to Substantially Complete the construction of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date or failure of the Borrower to complete the construction of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date;

(s) failure by Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date (as extended);

(t) an “Event of Default” or “Default” (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods;

(u) Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Governmental Authorities or third parties necessary for the completion of the construction of the Improvements, and the operation of, and access to, the Project, within sixty (60) days after the Closing Date; or

(v) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 8.1), as and when required, which continues for a period of thirty (30) days after written notice of such failure by the Funding Lender or the Servicer on its behalf to the Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender’s judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Funding Notes or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Any notice of default delivered by the Funding Lender or the Governmental Lender to the Borrower shall be contemporaneously delivered to the Equity Investor and the Special Limited Partner.

Section 8.2 Remedies.

Section 8.2.1 Acceleration Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may take such action (whether directly or by directing the actions of the Fiscal Agent), without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Funding Notes to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by the Funding Lender, in the Funding Lender’s sole and absolute discretion; and upon any Event of Default described in paragraph (e), (g) or (i) of Section 8.1, the Borrower Payment

Obligations shall become immediately due and payable without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

Section 8.2.2 Remedies Cumulative Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender or the Fiscal Agent against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that, if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until they have exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations has been paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender, the Fiscal Agent and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor or the Special Limited Partner shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 8.2.3 Delay No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender or the Fiscal Agent shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender and the Fiscal Agent reserve the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

Section 8.2.4 Setoff; Waiver of Setoff Upon the occurrence of an Event of Default, the Funding Lender may, at any time and from time to time, without notice to the Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of the Borrower to the Funding Lender or the Fiscal Agent arising under or connected with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not the Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and the Borrower hereby grants to the Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced

by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

Section 8.2.5 Assumption of Obligations In the event that the Funding Lender, the Fiscal Agent or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Notes, and any other Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

Section 8.2.6 Accounts Receivable Upon the occurrence of an Event of Default, the Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing the Borrower's accounts, accounts receivable and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of the Funding Lender.

Section 8.2.7 Defaults under Other Documents To the extent permitted thereby, the Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

Section 8.2.8 Abatement of Disbursements Notwithstanding any provision to the contrary herein or any of the other Borrower Loan Documents or the Funding Loan Documents, the Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to the Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of Borrower to fail to be true and correct in all material respects, unless and until the Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

Section 8.2.9 Completion of Improvements Upon the occurrence of any Event of Default, the Funding Lender shall have the right to cause an independent contractor selected by the Funding Lender to enter into possession of the Project and to perform any and all work and labor necessary for the completion of the Project substantially in accordance with the Plans and Specifications, if any, and to perform the Borrower's obligations under this Borrower Loan Agreement. All sums expended by the Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by the Borrower and shall be secured by the Security Documents.

Section 8.2.10 Right to Directly Enforce Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender or the Fiscal Agent, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

Section 8.2.11 Power of Attorney Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, the Borrower hereby constitutes and appoints the Funding Lender, or an independent contractor selected by the Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of the Borrower's obligations under this Borrower Loan Agreement in the name of the Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of

attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

(a) to use any of the funds of the Borrower or the General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by the Funding Lender for the Borrower (including all funds in all deposit accounts in which the Borrower has granted to the Funding Lender a security interest), for the purpose of effecting completion of the construction of the Improvements, in the manner called for by the Plans and Specifications;

(b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Project in substantially the manner contemplated by the Plans and Specifications;

(c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

(d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;

(e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project, the Improvements or the Project, or may be necessary or desirable for the completion of the construction of the Improvements, or clearance of objections to or encumbrances on title;

(f) to execute all applications and certificates in the name of the Borrower, which may be required by any other construction contract;

(g) to prosecute and defend all actions or proceedings in connection with the Project and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the construction of the Improvements, which Borrower might do on its own behalf;

(h) to let new or additional contracts to the extent not prohibited by their existing contracts;

(i) to employ watchmen and erect security fences to protect the Project from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender's assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Notes, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

ARTICLE IX SPECIAL PROVISIONS

Section 9.1 Sale of Note and Secondary Market Transaction

Section 9.1.1 Cooperation Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender’s or the Servicer’s request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Funding Notes or participations therein or securitizations of single or multi-class securities (the “Securities”) secured by or evidencing ownership interests in all or a portion of the Funding Notes (each such sale, assignment and/or securitization, a “Secondary Market Transaction”); provided that the Borrower shall not incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower’s rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I environmental reports, and, if appropriate, Phase II environmental reports), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the “Provided Information”), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 9.1.2 Use of Information The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a “Secondary Market Disclosure Document”), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c), with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a

Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

Section 9.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents

In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document, unless caused by the gross negligence or willful misconduct of such party seeking indemnification.

Section 9.1.4 Borrower Indemnity Regarding Filings In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify the Funding Lender, the Governmental Lender, the Fiscal Agent, and the underwriter group (the “Underwriter Group”) for any securities for any Liabilities to which the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading, and (ii) reimburse the Funding Lender, the Servicer, the Governmental Lender, the Fiscal Agent, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Governmental Lender, the Fiscal Agent, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 9.1.5 Indemnification Procedure Promptly after receipt by an indemnified party under Section 9.1.3 and Section 9.1.4 of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other

than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 9.1.6 Contribution In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE X MISCELLANEOUS

Section 10.1 Notices All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a "notice") shall be deemed to be given and made when delivered by hand, by recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

If to the Borrower:

Columbia Heights Leased Housing Associates III, LLLP
2905 Northwest Boulevard #150
Plymouth, Minnesota 55441
Attention: Mark S. Moorhouse and Owen C. Metz
E-mail: mmoorhouse@dominiuminc.com
ometz@dominiuminc.com
Telephone: (763) 354-5618

with a copy to:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402-4629
Attention: John D. Nolde
E-mail: jnolde@winthrop.com
Telephone: (612) 604-6720

If to the Equity Investor:

Attention: _____
Facsimile: _____
Telephone: _____

with a copy to:

Attention: _____
Facsimile: _____
Telephone: _____

If to the Special Limited Partner:

Attention: _____
Facsimile: _____
Telephone: _____

with a copy to:

Attention: _____
Facsimile: _____
Telephone: _____

If to the Governmental Lender:

City of Columbia Heights, Minnesota
590 – 40th Avenue NE
Columbia Heights, Minnesota 55421
Attention: Keith M. Dahl, Economic Development Manager
Email: KDahl@columbiaheightsmn.gov
Telephone: (763) 706-3674

with a copy to:

Kennedy & Graven, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55082
Attention: John Utley and Sofia E. Lykke
E-mail: jutley@kennedy-graven.com
slykke@kennedy-graven.com
Telephone: (612) 337-9300

If to Funding Lender:

Citibank, N.A.

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

with a copy to:

Attention: _____
Re: Grand Central Flats Deal ID No. _____

Facsimile: _____
Telephone: _____

Prior to the
Conversion Date:

Citibank, N.A.

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

After the
Conversion Date:

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

Copy of any notices
of default sent to:

Attention: _____
Re: Grand Central Flats Deal ID No. _____
Facsimile: _____
Telephone: _____

If to Fiscal Agent:

[U.S. Bank National Association]
[60 Livingston Avenue, 3rd Floor
EP-MN-WS3C
Saint Paul, Minnesota 55107-2292
Attention: _____, Vice President
Facsimile: 651- 466-____]

with a copy to:

Attention: _____
Facsimile: _____
Telephone: _____

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties by written notice as provided herein.

The Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to the Funding Loan Agreement and delivered using Electronic Means; provided, however, that the Borrower, the Governmental Lender or and such other party giving such instruction (the "Sender") shall provide to the Fiscal Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing

specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder. If the Sender elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent's understanding of such Instructions shall be deemed controlling. The Borrower, the Governmental Lender and any other Sender understand and agree that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Governmental Lender and the other parties who may give instructions to the Fiscal Agent under the Funding Loan Agreement; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 10.2 Brokers and Financial Advisors The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 10.3 Survival This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Notes and the assignment of the Borrower Notes to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations are unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer.

Section 10.4 Preferences The Funding Lender, as assigned by the Governmental Lender, shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a

payment to the Governmental Lender, the Fiscal Agent or the Servicer, or the Governmental Lender, the Fiscal Agent or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 10.5 Waiver of Notice The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender, the Fiscal Agent or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender, the Fiscal Agent or the Servicer, as the case may be, with respect to any matter not specifically and expressly provided for in the Borrower Loan Documents as to the giving of notice by the Funding Lender, the Fiscal Agent or the Servicer to the Borrower.

Section 10.6 Offsets, Counterclaims and Defenses The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender, the Fiscal Agent, the Governmental Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of the Funding Lender's, the Governmental Lender's or the Fiscal Agent's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

Section 10.7 Publicity The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

Section 10.8 Construction of Documents The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 10.9 No Third Party Beneficiaries The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Borrower and, with respect to Section 9.1.3 and Section 9.1.4, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer

upon anyone other than the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 10.10 Assignment Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, the Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all of the Funding Lender's or the Fiscal Agent's rights, title, obligations and interests therein may be assigned by the Funding Lender or the Fiscal Agent, as appropriate, at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise. Upon such assignment, all references to the Funding Lender or the Fiscal Agent, as appropriate, in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender or the Fiscal Agent, as appropriate. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of the Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by the Funding Lender before such assignment. In connection with any proposed assignment, the Funding Lender may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to the Funding Lender with reference to the Borrower, the General Partner, the Guarantor or any Affiliate, or the Project, including information that the Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

Section 10.11 [Intentionally Omitted]

Section 10.12 Governmental Lender, Funding Lender, Fiscal Agent and Servicer Not in Control; No Partnership None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer or to create an equity in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer. Neither the Governmental Lender, the Funding Lender, the Fiscal Agent nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall in no event be liable for any of the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall not be deemed

responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Borrower, or to create an equity in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13 Release The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 10.14 Term of the Borrower Loan Agreement This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Notes, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Section 5.11 (Governmental Lender's Fees), Section 5.14 (Expenses), Section 5.15 (Indemnity), Section 9.1.3, Section 9.1.4, Section 9.1.5, Section 9.1.6 and Section 10.15 (Reimbursement of Expenses), as well as under Section 5.7 of the Construction Funding Agreement, shall survive the termination of this Borrower Loan Agreement.

Section 10.15 Reimbursement of Expenses If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Notes.

Section 10.16 Permitted Contests Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, the Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to the Funding Lender's rights, but this right shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to the Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless the Borrower shall have given prior Written Notice to the Governmental Lender and the Funding Lender of the Borrower's intent to so contest or object thereto, and unless (i) the Borrower has, in the Funding Lender's judgment, a reasonable basis for such contest, (ii) the Borrower pays when due any portion of the claim, demand, levy or assessment to which the Borrower does not object, (iii) the Borrower demonstrates to the Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) the Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to the Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to the Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) the Borrower pays, promptly following a determination of the amount of such claim, demand, levy or

assessment due and owing by the Borrower, the amount so determined to be due and owing by the Borrower. In the event that the Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by the Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and the Funding Lender may draw or realize upon any bond or other security delivered to the Funding Lender in connection with the contest by Borrower, in order to make such payment.

Section 10.17 Funding Lender Approval of Instruments and Parties All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by the Funding Lender. The Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of the Funding Lender. No such approval shall result in a waiver of any default of the Borrower. In no event shall the Funding Lender's approval be a representation of any kind with regard to the matter being approved.

Section 10.18 Funding Lender Determination of Facts The Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 10.19 Calendar Months With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

Section 10.20 Determinations by Governmental Lender and Funding Lender Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion.

Section 10.21 Governing Law This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 10.22 Consent to Jurisdiction and Venue The Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in Anoka County, Minnesota (the "County"). The State and federal courts and authorities with jurisdiction in the County shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. The 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. However, nothing herein is intended to limit the Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against the Borrower or any of the Borrower's assets in any court of any other jurisdiction.

Section 10.23 Successors and Assigns This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a “person” or “persons” shall be deemed to include individuals and entities.

Section 10.24 Severability The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision and all other provisions shall remain in full force and effect.

Section 10.25 Entire Agreement; Amendment and Waiver This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender’s or the Funding Lender’s obligation to make further Disbursements nor, in the event the Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

Section 10.26 Counterparts This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 10.27 Captions The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 10.28 Servicer The Borrower hereby acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Notes, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan, and (b) unless the Borrower receives Written Notice from the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 10.29 Beneficiary Parties as Third Party Beneficiary Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 10.30 Waiver of Trial by Jury TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY, AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

Section 10.31 Time of the Essence Time is of the essence with respect to this Borrower Loan Agreement.

Section 10.32 Modifications Modifications (if any) to this Borrower Loan Agreement (“Modifications”) are set forth on Exhibit A attached to this Borrower Loan Agreement. In the event of a Transfer under the terms of the Security Instrument, some or all of the Modifications to this Borrower Loan Agreement may be modified or rendered void by the Governmental Lender or the Funding Lender at its option by notice to Borrower or such transferee.

Section 10.33 Reference Date This Borrower Loan Agreement is dated for reference purposes only as of the first day of December, 2017, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

ARTICLE XI LIMITATIONS ON LIABILITY

Section 11.1 Limitation on Liability Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Notes.

Section 11.2 Limitation on Liability of Governmental Lender The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from money and assets received by the Fiscal Agent or the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the full faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the full faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender’s sole source of money to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment price) of and interest on the Funding Loan as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Fiscal Agent or the Servicer, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Fiscal Agent, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Funding Lender, the Fiscal Agent, the Governmental Lender or any such third party, as the case may be, therefor.

Section 11.3 Waiver of Personal Liability No member, director, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or

employee from the performance of any official duty provided by law or by this Borrower Loan Agreement, subject to the limitations of Section 11.4 hereof.

Section 11.4 Limitation on Liability of Funding Lender's Officers, Employees, Etc.

(a) The Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of the Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender, or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Governmental Lender and the Funding Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. The Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with the Borrower in any manner whatsoever. Prior to default by the Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), members, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 11.5 Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Borrower Loan Agreement or caused this Borrower Loan Agreement to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

BORROWER:

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership

By: Columbia Heights Leased Housing Associates III, LLC,
a Minnesota limited liability company, its general partner

By: _____
Mark S. Moorhouse
Senior Vice President

GOVERNMENTAL LENDER:

**CITY OF COLUMBIA HEIGHTS,
MINNESOTA**, as the Governmental Lender

By _____
Its Mayor

By _____
Its City Manager

Agreed to and Acknowledged by:

FUNDING LENDER:

CITIBANK, N.A.

By: _____

Name: _____

Authorized Signatory

Agreed to and Acknowledged by:

FISCAL AGENT:

[U.S. BANK NATIONAL ASSOCIATION]

By: _____
Name: _____
Title: _____

EXHIBIT A

Modifications

CL162-054 (SEL)
510313v.1

First Draft
Friday, November 3, 2017

REGULATORY AGREEMENT

by and among

**CITY OF COLUMBIA HEIGHTS, MINNESOTA,
as Governmental Lender**

**U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent**

and

**COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP,
as Borrower**

Dated as of December 1, 2017

Relating to:

GRAND CENTRAL FLATS

This instrument was drafted by:
Kennedy & Graven, Chartered (SEL)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402

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REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT (this “Regulatory Agreement”) is made and entered into as of the first day of December, 2017, by and among the CITY OF COLUMBIA HEIGHTS, MINNESOTA, a municipal corporation and political subdivision under the laws of the State of Minnesota (the “Governmental Lender” or the “Issuer”), U.S. BANK NATIONAL ASSOCIATION, a national banking corporation (the “Fiscal Agent”), and COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership (the “Borrower”).

RECITALS

The Governmental Lender is authorized by Minnesota Statutes, Chapter 462C, as amended (the “Act”), to issue multifamily housing revenue bonds to finance in whole or in part the cost of a project for the public purposes expressed in the Act, as well as to pay for all or a portion of the costs of issuing such bonds.

The Borrower has requested that the Governmental Lender issue multifamily housing revenue bonds under the Act for the purpose of financing the costs of the acquisition, construction, and equipping of a multifamily housing facility comprised of 148 affordable rental apartments to be located in two four-story buildings, together with related common amenity spaces, including a fitness facility, a club room, and 134 underground parking spaces and an additional 88 surface parking spaces, to be located at 1069 Grandview Court NE and 4729 Grand Avenue NE in the City of Columbia Heights, Minnesota, which development will be known as Grand Central Flats, or another name selected by the Borrower (the “Project”), on land legally described in Exhibit A attached hereto.

The Governmental Lender has concurrently issued its Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017A (the “Series A Funding Note”), in the aggregate principal amount of \$[Series A Par] and Taxable Multifamily Housing Revenue Funding Note (Grand Central Flats Project), Series 2017B (the “Series B Funding Note”), in the aggregate principal amount of \$[Series B Par], pursuant to a Funding Loan Agreement, dated as of December 1, 2017 (the “Funding Loan Agreement”), by and among the Governmental Lender, the Fiscal Agent, and Citibank, N.A. (the “Funding Lender”). In connection with the issuance of the Series A Funding Note and the Series B Funding Note (together, the “Funding Notes”), the Borrower and the Governmental Lender have entered into a Borrower Loan Agreement, dated as of December 1, 2017 (the “Borrower Loan Agreement”), pursuant to which the Governmental Lender has agreed to make, and the Borrower has agreed to accept, a loan in the aggregate principal amount of \$[Series A&B Par] (the sum of the Funding Notes) (the “Loan”) to finance the Project.

The Governmental Lender intends that interest on the Series A Funding Note be excluded from gross income of the owners of the Series A Funding Note for purposes of federal and State of Minnesota income taxation. That exclusion is dependent in part upon the use and operation of the Project and the uses of the proceeds of the Series A Funding Note complying with certain sections of the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations promulgated thereunder or applicable to the Series A Funding Note (the “Regulations”), including without limitation Section 142(d) of the Code.

Compliance with the requirements of the Code with respect to the use of the proceeds of the Series A Funding Note and the use and occupancy of the Project are in large part within the control of the Borrower, and the Governmental Lender is unwilling to make the Borrower Loan to finance the costs of the Project unless the Borrower enters into this Regulatory Agreement to assure compliance with the

Code and to preserve the exclusion of interest on the Series A Funding Note from gross income of the owners thereof under the Code.

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Funding Loan Agreement.

For good and valuable consideration, the Borrower, the Fiscal Agent, and the Governmental Lender have determined to enter into this Regulatory Agreement in order to impose on the Project certain requirements of the Code and of the Act applicable to the Project.

NOW, THEREFORE, the Borrower, the Fiscal Agent, and the Governmental Lender do hereby impose upon the Project the following covenants, restrictions, charges, and easements, which shall run with the land and shall be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein, for the length of time that this Regulatory Agreement shall be in full force and effect:

Section 1. Federal Tax Covenants Relating to the Project. The Borrower represents, warrants and covenants with respect to the Project that:

(a) The Project will be constructed for the purpose of providing multifamily residential rental property, and the Project constitutes and will constitute a qualified residential rental project, as such term is used in Sections 142(a)(7) and 142(d) of the Code.

(b) At no time will either the Borrower or any related party occupy a unit in the Project other than units occupied or to be occupied by agents, employees or representatives of the Borrower and reasonably required for the proper maintenance or management of the Project. In the event a unit within the Project is occupied by the Borrower, the Project must include no fewer than four units not occupied by the Borrower.

(c) The Project consists of one "project" and, for this purpose, proximate buildings or structures are part of the same project only if owned for federal income tax purposes by the same person and if the buildings are financed pursuant to a common plan; buildings or structures are proximate if they are all located on a single parcel of land or several parcels of land that are contiguous except for the interposition of a road, street, stream or similar property.

(d) All of the units in the Project will contain complete living, sleeping, eating, cooking, and sanitation facilities for a single person or a family.

(e) None of the units in the Project will at any time be utilized on a transient basis, or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium or rest home.

(f) The Borrower shall not restrict Qualifying Tenants (as defined in Section 3(a) hereof) from the enjoyment of unrestricted access to all common facilities and common areas of the Project.

(g) The Borrower shall not discriminate on the basis of race, creed, color, sex, or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(h) No part of the Project financed with the proceeds of the Series A Funding Note constitutes commercial property, and no health care services will be furnished by the Borrower to residents of the Project.

(i) All records of the Borrower relating to the Project, including all tenant lists and applications, shall be maintained in the State of Minnesota in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Governmental Lender or the Fiscal Agent, upon reasonable notice provided to the Borrower.

(j) All tenant leases shall be expressly subordinate to any mortgage on the Project, with the exception of any restrictions imposed under Section 42(h)(6) of the Code, and all leases of units to Qualifying Tenants shall contain clauses, among others, wherein each individual lessee:

(1) certifies the accuracy of the statements made in its application and Certification of Tenant Eligibility (as hereinafter defined);

(2) agrees that the family income, family composition and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of his or her tenancy; that he or she will comply promptly with all requests for income, family composition and other information relevant to determining low or moderate income status from the Borrower or the Fiscal Agent; and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her tenancy; and

(3) agrees that his or her lease may be terminated on thirty (30) days' notice after any noncompliance by such tenant if such noncompliance would adversely affect the federal tax-exempt status of interest on the Series A Funding Note.

(k) The proceeds of the Series A Funding Note will be used in accordance with the representations, warranties and covenants of Section 5.35 of the Borrower Loan Agreement.

Section 2. State Law Covenants of Borrower Relating to the Project; Maximum Rent.

The Borrower recognizes that the Governmental Lender is authorized to issue the Series A Funding Note to finance the Project only if the Project complies with the restrictions set forth in Minnesota Statutes Section 474A.047. The Borrower represents, warrants and covenants that the Project is a "project" as described in Subdivision 1(a) of such Section 474A.047. The Borrower covenants, consistent with the requirements of Minnesota Statutes, Section 474A.047, Subdivision 2, that for fifteen (15) years after the date hereof, the maximum rental rates of twenty percent (20%) of the units in the Project shall not exceed the area fair market rent or exception fair market rents for existing housing, if applicable, as established by the federal Department of Housing and Urban Development.

The Borrower must annually certify for such fifteen (15) years that the rental rates are within these limitations and the Borrower shall provide a copy of the annual certification to the Minnesota Commissioner of Finance, the Governmental Lender and the Fiscal Agent.

The Borrower acknowledges that Minnesota Statutes, Section 474A.047, Subdivision 3, requires that compliance with the rental rate requirements of this Section be monitored. The Governmental Lender, the Fiscal Agent or one or more agents acting on its or their behalf (the "Monitor") may issue an order of noncompliance if the Project is found by the Monitor to be out of compliance with these requirements. The Borrower shall pay a penalty to the Governmental Lender equal to one-half of one

percent (0.5%) of the total amount of bonds issued for the Project utilizing bonding authority under Minnesota Statutes, Chapter 474A, if the Monitor issues an order of noncompliance. For each additional year the Project is out of compliance, the annual penalty must be increased by one-half of one percent (0.5%) of the total amount of such bonds. Insubstantial violations may be waived. No order of non-compliance shall become final and effective until thirty (30) days after its dated date, and such effective date shall be further delayed if the Borrower in good faith contests the validity or accuracy of the order. This Section 2 is limited in its entirety to applicable provisions of Minnesota Statutes, Chapter 474A, but shall not limit any other obligations of the Borrower under this Regulatory Agreement.

Section 3. Occupancy Restrictions. The Borrower represents, warrants and covenants that, for the period specified in Section 5 hereof:

(a) Federal Tax Requirements. Upon completion of the Project, at least forty percent (40%) of the units in the Project shall be occupied (or treated as occupied as provided herein) by Qualifying Tenants and such units will be of comparable quality and will be a range of sizes and numbers of bedrooms comparable to those units that are available to other tenants. "Qualifying Tenants" shall mean those persons and families (treating all occupants of a unit as a single family) who shall be determined from time to time by the Borrower to be eligible as "individuals whose income is sixty percent (60%) or less of area median gross income" within the meaning of Section 142(d)(1)(B) of the Code. In determining the applicable income limit, the Borrower shall apply the provisions of Revenue Ruling 89-24. "Income" shall be determined in a manner consistent with determinations of lower income families under Section 8 of the United States Housing Act of 1937 (and as presently set forth in 24 CFR 813.106).

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 Code, no one of whom is entitled to file a joint return under Section 6013 of 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. Any unit occupied by an individual or family who is a Qualifying Tenant at the commencement of occupancy shall not continue to be treated as if occupied by a Qualifying Tenant during their tenancy in such unit if such individual or family subsequently ceases to be of low or moderate income unless such individual's or family's income does not exceed 140 percent of the maximum income qualifying as low or moderate income for a family of its size. In the event that a unit does cease to be treated as occupied by a Qualifying Tenant for such reason, and thereupon less than forty percent (40%) of the completed units in the Project would not be occupied (or treated as occupied) by Qualifying Tenants, the next vacant unit of comparable or smaller size not previously occupied by a Qualifying Tenant must be rented to a Qualifying Tenant.

Any completed unit vacated by a Qualifying Tenant shall be treated as occupied by a Qualifying Tenant until reoccupied (on other than a temporary basis not in excess of thirty-one (31) days), at which time a redetermination shall be made as to whether the unit is occupied by a Qualifying Tenant. The Borrower shall make reasonable efforts to rent the vacated unit, or the next available unit of comparable or smaller size, to a Qualifying Tenant before any similar units in the Project are rented to tenants not constituting Qualifying Tenants.

(b) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant on and after the date of this Regulatory Agreement shall be required annually to sign and deliver to the Borrower a Certification of Tenant Eligibility in the general form attached hereto as Exhibit B (the "Certification of Tenant Eligibility"), in which the

prospective Qualifying Tenant certifies that he or she or his or her family qualifies as being of low or moderate income. In addition, such person shall be required to provide whatever other information, documents or certifications are deemed necessary by the Borrower to substantiate the eligibility certification, on an ongoing annual basis.

(c) Lease Requirements. The form of lease to be utilized by the Borrower in renting any units in the Project on and after the date of this Regulatory Agreement 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 in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Certification of Tenant Eligibility.

(d) Retention. Certifications of Tenant Eligibility will be maintained on file by the Borrower with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year, commencing with the calendar year ending December 31, 2017, and the Borrower will file a copy thereof with the Fiscal Agent.

(e) Annual Certification. The Borrower covenants and agrees that during the term of this Regulatory Agreement, on or before May 31, after the close of each calendar year (or on or before such other date as may hereafter be prescribed by the Code), the Borrower shall certify to the United States Treasury Department (on Form 8703 or such other form as may hereafter be prescribed by the Code or the Treasury Department) that the Project continues to meet the requirements of Section 142(d) of the Code, and shall provide a copy of such annual certification to the Fiscal Agent and the Governmental Lender.

Section 4. Open to General Public. The Borrower represents and covenants that the housing units within the Project will be rented or available for rental to members of the general public on a continuous basis until the termination of occupancy requirements set forth in Section 5(a).

Section 5. Term of Restrictions.

(a) Occupancy Restrictions. The term of the Occupancy Restrictions set forth in Section 3 of this Regulatory Agreement shall commence on the first day on which ten percent (10%) of the residential units in the Project are occupied and shall end on the latest of the following (the "Qualified Project Period"): (i) the date that is 15 years after the date on which at least fifty percent (50%) of the units in the Project were first occupied; (ii) the first day on which no principal amount is outstanding under the Series A Funding Note or (iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

(b) Reserved.

(c) Earlier Termination of Restrictions. Notwithstanding the provisions of (a) and (b) of this Section 5, this Regulatory Agreement and all other restrictions hereunder shall terminate upon foreclosure of a mortgage or transfer of title to the Project by deed in lieu of foreclosure and repayment of the Series A Funding Note.

In addition, this Regulatory Agreement and the restrictions hereunder shall also cease to apply in the event of an involuntary noncompliance caused by unforeseen events such as fire, seizure, requisition, a change in federal law or an action of a federal agency after the date of issue of the Series A Funding Note that prevents the Fiscal Agent from enforcing the requirements of this Regulatory Agreement or condemnation or similar event; provided in all such cases that: (i) the Series A Funding Note is repaid as soon as reasonably practicable or (ii) any insurance proceeds or condemnation award or other amounts received as a result of such loss or destruction are used to provide a project that meets the requirements of

Section 142(d) or any successor provision of the Code and applicable Treasury Regulations, or any successor law or regulation, in which case this Regulatory Agreement shall be automatically reinstated as to such successor project. However, the foregoing provisions of this paragraph shall cease to apply in the event of foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time subsequent to such event and during the period set forth in paragraph (a) of this Section 5, the Borrower or a “related person” (as such term is used in Section 147(a) or any successor provisions of the Code) obtains an ownership interest in the Project for federal tax purposes.

(d) Termination of Regulatory Agreement. Unless earlier terminated pursuant to the provisions of paragraph (c) of this Section 5, this Regulatory Agreement shall terminate upon the later of the termination of the Occupancy Restrictions or the Rental Restrictions as provided in paragraphs (a) and (b) of this Section 5.

(e) Removal from Real Estate Records. Upon delivery by the Borrower to the Fiscal Agent and, so long as the Series A Funding Note is outstanding, the Funding Lender of an opinion of an independent attorney duly admitted to practice law before the highest court of any state (“Independent Counsel”) that the conditions to termination of this Regulatory Agreement have been met, the Fiscal Agent shall, upon request by the Borrower or its assigns, file any documentation prepared by the Borrower and approved by Independent Counsel as necessary to remove this Regulatory Agreement from the real estate records of Anoka County.

Section 6. Transfer Restrictions. The Borrower covenants and agrees that the Borrower will cause or require as a condition precedent to any conveyance, transfer, assignment or any other disposition of the Project prior to the termination of the Rental Restrictions and Occupancy Restrictions provided herein (the “Transfer”) that the transferee of the Project pursuant to the Transfer will assume in writing, in a form acceptable to Bond Counsel, all duties and obligations of the Borrower under this Regulatory Agreement, including this Section 6.

Section 7. Enforcement.

(a) The Borrower shall, upon reasonable notice and during normal business hours, permit any duly authorized representative of the Fiscal Agent to inspect any books and records of the Borrower regarding the Project and the operation thereof, including the incomes of Qualifying Tenants.

(b) The Borrower shall submit any information, documents or certificates requested by the Fiscal Agent or Governmental Lender that any of them deem reasonably necessary to substantiate the Borrower’s continuing compliance with the provisions of this Regulatory Agreement or the Code. In particular, the Borrower shall prepare and submit to the Governmental Lender and the Fiscal Agent, on or before _____ 1 of each year during the Qualified Project Period, beginning the first _____ 1 following commencement of the Qualified Project Period, a Continuing Program Compliance Certificate in the form of EXHIBIT C attached hereto and executed by the Borrower, and, if requested by the Fiscal Agent or the Governmental Lender the Income Certifications described in Section 3(b) above.

(c) The Borrower covenants that it will not knowingly take or permit any action that would adversely affect the exclusion of interest on the Series A Funding Note from gross income of the owners thereof for purposes of federal income taxation (other than interest on the Series A Funding Note for a period during which the Series A Funding Note is held by a “substantial user” of any facility financed with the proceeds of the Series A Funding Note or a “related person” as such terms are used in Section 147(a) or any successor provision of the Code and applicable Treasury Regulations or any successor law or regulation). Moreover, the Borrower covenants to take any lawful action (including amendment of this Regulatory Agreement as may be necessary, in the opinion of bond counsel reasonably acceptable to the

Fiscal Agent and the Funding Lender) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is tax-exempt under Section 142(d) or any successor provision of the Code and affecting the Project.

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement and such default remains uncured for a period of 30 days after written notice thereof is given by the Fiscal Agent to the Borrower, with a copy to the Funding Lender, or within such further time as Bond Counsel determines is necessary to correct the violation without loss of tax exemption of interest on the Series A Funding Note, but not to exceed any limitations set by applicable regulations, then the Fiscal Agent may (i) institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin such default, or to recover money damages caused by such default (including, without limitation, issuing an order of noncompliance for substantial violations pursuant to Minnesota Statutes, Section 474A.047, Subdivision 3, and assessing the annual penalty authorized thereby, but not to accelerate repayment of amounts due under the Borrower Loan Agreement except as may be permitted by the Borrower Loan Agreement), and (ii) with the consent of the Funding Lender, exercise any remedies available pursuant to the Borrower Loan Agreement. The Borrower agrees that an action to recover money damages for default will not be an adequate remedy at law, and the Fiscal Agent shall have the right to institute an action for and seek specific performance by the Borrower to remedy such default. The Governmental Lender, Fiscal Agent and, if applicable, the Monitor agree, before issuing a notice of noncompliance pursuant to Minnesota Statutes, Section 474A.047, Subdivision 3, to give the Borrower and the Funding Lender a draft of the notice and to give the Borrower 90 days to respond to said draft. The provisions hereof are imposed upon and made applicable to the Project Premises, and shall run with the Project Premises and shall be enforceable against the Borrower, each purchaser, grantee, owner or lessee of the Project, and the respective heirs, legal representatives, successors and assigns of the Borrower and each such purchaser, grantee, owner or lessee.

Any default hereunder may be cured by the Borrower's limited partners or the Funding Lender (provided that neither Borrower's limited partners nor the Funding Lender shall be obligated to do so), and any such cure shall be accepted or rejected on the same basis as any cure by the Borrower.

No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or time.

(e) The Borrower acknowledges that the primary purpose for requiring compliance by the Borrower with the restrictions provided in this Regulatory Agreement is to comply with State of Minnesota law and the Code and to preserve the federal income tax exemption of interest on the Series A Funding Note to the owners thereof, and that the Fiscal Agent, on behalf of the owner of the Series A Funding Note, who is declared to be a third-party beneficiary of this Regulatory Agreement, shall be entitled, for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

Section 8. Indemnification. The Borrower hereby indemnifies, and agrees to defend and hold harmless, the Governmental Lender and the Fiscal Agent from and against all liabilities, losses, damages, costs, expenses (including 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 it, on account of any failure by the Borrower to comply with the terms of this Regulatory Agreement, or on account of any representation or warranty of the Borrower

contained herein being untrue, including, without limitation, any action for damages, or for payment or reimbursement of taxes, penalties and interest, brought by the holder of the Series A Funding Note or state or federal taxing authorities as a result of the interest on the Series A Funding Note becoming includable in gross income of the owners thereof for federal and State of Minnesota income tax purposes; provided, however, that the Borrower shall not be required to indemnify the Fiscal Agent for any claims that arise from the negligence or malfeasance of the Fiscal Agent and shall not be required to indemnify the Governmental Lender for any claims that arise from the gross negligence or malfeasance of the Governmental Lender. These provisions shall survive payment of the Series A Funding Note and termination of this Regulatory Agreement.

Section 9. Amendment. It is agreed that the parties hereto shall promptly amend this Regulatory Agreement (in a form suitable for recording) (a) to the extent and when necessary or advisable, in the opinion of bond counsel reasonably acceptable to the Fiscal Agent and the Funding Lender, to preserve the exclusion of interest on the Series A Funding Note from gross income of the owners thereof for purposes of federal income taxation, and (b) if, in the opinion of such bond counsel (which opinion shall be delivered to the Fiscal Agent and the Funding Lender, with a copy to the Borrower), such amendment will not adversely affect the federal tax exemption of interest on the Series A Funding Note and is in compliance with the Act.

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

Section 11. Notices. All notices to be given pursuant to this Regulatory Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, or hand delivered, to the parties hereto at the addresses set forth below. Each notice, certificate or other communication given hereunder by the Borrower shall be given to the Fiscal Agent at the address set forth below. The Borrower and the Fiscal Agent 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 Governmental Lender: City of Columbia Heights, Minnesota
590 – 40th Avenue NE
Columbia Heights, Minnesota 55421
Attention: Keith M. Dahl, Economic Development Manager

To the Fiscal Agent: [U.S. Bank National Association]
[60 Livingston Avenue, Third Floor
EP-MN-WS3C
St. Paul, MN 55107-2292
Attn: _____, Vice President]

To the Borrower: Columbia Heights Leased Housing Associates III, LLLP
2905 Northwest Boulevard #150
Plymouth, Minnesota 55441
Attn: Mark S. Moorhouse and Owen C. Metz

With copy to: Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402-4629
Attn: John D. Nolde

To the Equity Investor:

Attention: _____
Facsimile: _____
Telephone: _____

with a copy to:

Attention: _____
Facsimile: _____
Telephone: _____

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

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

Section 14. Regulatory Agreement Binding; Covenants Run with the Land. This Regulatory Agreement and the covenants contained herein shall run with the Project Premises and shall bind the Borrower (including each general, special or limited partner of the Borrower, each of whom the Borrower hereby represents to have authorized the Borrower to bind by this Regulatory Agreement, and, to the extent controlled by the Borrower or any of the foregoing, each person who is "related" to any of the foregoing within the meaning of Section 147(a) of the Code), its heirs, legal representatives, executors, administrators, successors in office or interest, and assigns, and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Fiscal Agent and its successors and assigns, for the term of this Regulatory Agreement as provided in Section 5 hereof.

Section 15. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

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

IN WITNESS WHEREOF, the Issuer has caused this Regulatory Agreement to be signed by its duly authorized representatives, as of the date and year first written above.

CITY OF COLUMBIA HEIGHTS, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Donna Schmitt, the Mayor of the City of Columbia Heights, Minnesota, a municipal corporation and political subdivision under the laws of the State of Minnesota, on behalf of said City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Walter R. Fehst, the City Manager of the City of Columbia Heights, Minnesota, a municipal corporation and political subdivision under the laws of the State of Minnesota, on behalf of said City.

Notary Public

IN WITNESS WHEREOF, the Fiscal Agent has caused this Regulatory Agreement to be signed by its duly authorized representative, as of the date and year first written above.

[U.S. BANK NATIONAL ASSOCIATION]

By: _____
Name: _____
Title: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of [U.S. Bank National Association], a national banking association, on behalf of said association.

Notary Public

IN WITNESS WHEREOF, the Borrower has caused this Regulatory Agreement to be signed by its duly authorized representative, as of the date and year first written above.

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership

By: Columbia Heights Leased Housing Associates III, LLC, a Minnesota limited liability company, its general partner

By: _____
Mark S. Moorhouse
Senior Vice President

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Mark S. Moorhouse, the Senior Vice President of Columbia Heights Leased Housing Associates III, LLC, a Minnesota limited liability company, and the general partner of Columbia Heights Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership.

Notary Public

(Signature page of Borrower to Regulatory Agreement)

EXHIBIT A
Legal Description

EXHIBIT B

Form of Income Certification

TENANT INCOME CERTIFICATION <input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other	Effective Date: _____ Move-in Date: _____ (MM/DD/YY): _____
PART I. DEVELOPMENT DATA	
Property Name: Grand Central Flats Address: [1069 Grandview Court NE] [4729 Grand Avenue NE], Columbia Heights, MN	County: Anoka Unit Number: _____
BIN #: _____ # Bedrooms: _____	

PART II. HOUSEHOLD COMPOSITION						
HH Br #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)				
HH Br #	(A) Employment or Wages	(B) Soc. Security / Pensions	(C) Public Assistance	(D) Other Income
TOTAL	\$	\$	\$	\$
Add totals from (A) through (D) above			TOTAL INCOME (E):	\$

PART IV. INCOME FROM ASSETS

HH Mbr#	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset	
TOTALS:			\$	\$	
Enter Column (H) Total if over \$5,000		\$ _____	x 2.00 %	= (J) Imputed Income	\$
Enter the greater of the total column I, or J: imputed income				TOTAL INCOME FROM ASSETS (K)	\$
(L) Total Annual Household Income from all sources [Add (E) + (K)]					\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full-time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____	_____	_____	_____
Signature	(Date)	Signature	(Date)
_____	_____	_____	_____
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1	Household Meets Income Restriction at:	RECERTIFICATION ONLY:
\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50%	Current Income Limit x 140%
Current Income Limit per Family Size: \$ _____	<input type="checkbox"/> 40% <input type="checkbox"/> 30%	\$ _____
Household Income at Move-in _____	<input type="checkbox"/> ___%	Household income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
		Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent	\$ _____	Rent Assistance:	\$ _____
Utility Allowance	\$ _____	Other non-optional charges:	\$ _____
GROSS RENT FOR UNIT:		Unit Meets Rent Restriction at:	
Tenant paid rent plus Utility Allowance and other non-optional charges	\$	<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> ___%	
Maximum Rent Limit for this unit: \$ _____			

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL-TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	If yes, enter student explanation** (also attach documentation) <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Enter 1-4 </div>	Student explanation: 1. TANF assistance 2. Job training program 3. Single parent/dependent child 4. Married/joint return*
<p>* Exception 4 for married/joint return is the only exception available for units necessary to qualify tax-exempt bonds.</p>		

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification

a. Tax Credit <input type="checkbox"/>	b. HOME <input type="checkbox"/>	c. Tax Exempt <input type="checkbox"/>	d. AHDP <input type="checkbox"/>	e. _____ <input type="checkbox"/> (Name of Program)
See Part V above.	<i>Income Status</i>	<i>Income Status</i>	<i>Income Status</i>	<i>Income Status</i>
	<input type="checkbox"/> ≤ 50% AMGI	<input type="checkbox"/> 50% AMGI	<input type="checkbox"/> ≤ 50% AMGI	<input type="checkbox"/> _____
	<input type="checkbox"/> ≤ 60% AMGI	<input type="checkbox"/> 60% AMGI	<input type="checkbox"/> ≤ 80% AMGI	<input type="checkbox"/> _____
	<input type="checkbox"/> ≤ 80% AMGI	<input type="checkbox"/> 80% AMGI	<input type="checkbox"/> ≤ OI **	<input type="checkbox"/> ≤ OI **
	<input type="checkbox"/> ≤ OI **	<input type="checkbox"/> OI **		

** Upon recertification, household was determined over income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER / REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER / REPRESENTATIVE

DATE

**INSTRUCTIONS FOR COMPLETING
TENANT INCOME CERTIFICATION**

This form is to be completed by the owner or an authorized representative.

Part I – Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- Move-in Date Enter the date the tenant has or will take occupancy of the unit.
- Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
- Property Name Enter the name of the development.
- County Enter the county (or equivalent) in which the building is located.
- BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address Enter the unit number.
- Unit Number Enter the unit number.
- # Bedrooms Enter the number of bedrooms in the unit.

Part II – Household Composition

List all occupants of the unit. State each household member’s relationship to the head of the household by using one of the following coded definitions:

- | | | | |
|---|-------------------|---|---------------------|
| H | Head of household | S | Spouse |
| A | Adult co-tenant | O | Other family member |
| C | Child | F | Foster child |
| L | Live-in caretaker | N | None of the above |

Enter the date of birth, student status, and Social Security number or alien registration number for each occupant.

If there are more than seven occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III – Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the 12 months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

- Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
- Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
- Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.)
- Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
- Row (E) Add the totals from columns (A) through (D) above. Enter this amount.

Part IV – Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the 12 months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

- Column (F) List the type of asset (i.e., checking account, savings account, etc.)
- Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
- Column (H) Enter the cash value of the respective asset.
- Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
- TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2 % and enter the amount in (J), Imputed Income.

Row (K)	Enter the Greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income from All Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than five days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.
Current Income Limit x 140%	For recertification only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI – Rent

Tenant Paid Re	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other

non-optional charges.

Maximum Rent Limit for this unit Enter the maximum allowable gross rent for the unit.

Unit Meets Rent Restriction at?? Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII – Student Status

If all household members are full-time* students, check “yes.” If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

** Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit See Part V above.

HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.

Tax Exempt If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.

AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household’s unit will count towards the set-aside requirements, mark the appropriate box indicating the household’s designation.

Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER / REPRESENTATIVE

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well-trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

EXHIBIT C

Form of Certificate of Continuing Program Compliance

[DATE]

TO: City of Columbia Heights, Minnesota
590 – 40th Avenue NE
Columbia Heights, Minnesota 55421
Attention: Economic Development Manager

[U.S. Bank National Association]
[60 Livingston Avenue, Third Floor
EP-MN-WS3C
St. Paul, MN 55107-2292
Attn: Vice President]

The following information with respect to an approximately 148-unit multifamily rental housing facility, to be located at 1069 Grandview Court NE and 4729 Grand Avenue NE in the City of Columbia Heights, Minnesota (the “Project”), is being provided by Columbia Heights Leased Housing Associates III, LLLP (the “Borrower”) to the City of Columbia Heights, Minnesota (the “Governmental Lender”), pursuant to that certain Regulatory Agreement, dated as of December 1, 2017 (the “Regulatory Agreement”), with respect to the Project:

(A) The total number of residential units of the Project which are available for occupancy is 148. 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 Regulatory Agreement:

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

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 (attach separate page):

	Unit Number	Name of Tenant	Number of Persons Residing in the Unit	Total Adjusted Gross Income	Date of Initial Occupancy
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(etc.)					

(E) The Borrower has obtained a "Certification of Tenant Eligibility", in the form provided as EXHIBIT "B" to the Regulatory Agreement, from each Tenant named in (D) above, and each such Certificate is being maintained by the Borrower 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 Governmental Lender by the Borrower.

(F) In renting the residential units in the Project, the Borrower 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 12 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 Borrower 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 Regulatory Agreement.

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

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Borrower, on _____, 20_____.

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES III, LLLP, a Minnesota limited liability limited partnership

By: Columbia Heights Leased Housing Associates III, LLC, a Minnesota limited liability company
Its: General Partner

By: _____

Its: _____



AGENDA SECTION	CONSENT AGENDA
ITEM NO.	7J
MEETING DATE	NOVEMBER 13

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	LICENSE AGENDA		
DEPARTMENT:	COMMUNITY DEVELOPMENT	CITY MANAGER'S APPROVAL:	
BY/DATE:	NOV 8, 2017	BY/DATE:	
CITY STRATEGY:	#1; Safe Community		
Additional Strategy?	Choose an item.		
SHORT TERM GOAL (IF APPLICABLE):	Choose an item.		
Additional Goal?	Choose an item.		

BACKGROUND:

BACKGROUND/ANALYSIS

Attached is the business license agenda for the November 13, 2017 Council meeting. This agenda consists of applications for 2018 Contractor Licenses and 2018 Business Licenses.

At the top of the license agenda you will notice a phrase stating *Signed Waiver Form Accompanied Application. This means that the data privacy form has been submitted as required. If not submitted, certain information cannot be released to the public.

RECOMMENDED MOTION:

Move to approve the items as listed on the business license agenda for November 13, 2017 as presented.

ATTACHMENTS:

TO CITY COUNCIL Nov 13, 2017

*Signed Waiver Form Accompanied Application

CONTRACTOR'S LICENSES-2018

BLDG	*Crow River Pl & Htg	7440 20 th St SW, Howard Lake	\$80
	*Aairgate Htg & AC	PO Box 1649 Maple Grove	\$80
	*Knight Htg & Air	13535 89 th St NE, Otsego	\$80
	*All Climate Mech	7944 University Ave, Fridley	\$80
	*Home Energy Center	2415 Annapolis Ln, Plymouth	\$80
	*Angell Aire Inc	12253 Nicollet Ave S, Burnsville	\$80
	*River City	8290 Main St NE, Fridley	\$80

CIGARETTE SALES-2018

	*Family Dollar	4037 Central Ave	\$500
	*Holiday Stationstores	4259 Central Ave	\$500
	*Hot Market	5011 University Ave	\$500
	*NY Groc LLC	4635 Central Ave	\$500
	*Jeff's Bobby & Steves	3701 central Ave	\$500

SMOKE SHOP LICENSE

	*Smoke & Vape	2311 37 th Ave	\$1,000
	*Hookah Kingdom	4919 Central Ave	\$1,000
	*Fouad's/Hookah Paradise	4110 Central Ave	\$1,000

MASSAGE THERAPIST

	*Zentral Massage-Business	3986 Central Ave	\$500
	*Kang Thao Heu-Therapist at Zentral Massage	3986 Central	\$100
	*Alex Vongkaysone-Therapist at Zentral Massage	3986 Central	\$100

FUEL DISPENSING

	*Northern Tier/SA	5000 Central Ave	\$160
	*Holiday Stationstores	4259 Central Ave	\$380
	*Jeff's Bobby & Steve's	3701 Central Ave	\$210
	*University Auto	5257 University Ave	\$ 80

VEHICLE SALES

	*David's Auto	573 40 th Ave, Col. Hts.	\$300
	*Jeff's Bobby & Steves	3701 Central Ave	\$300

SECONDHAND MERCHANT

	Saver's Inc	4849 Central Ave	\$100
	Unique Thrift	2201 37 th Ave	\$100

GAMES OF SKILL

*Theisen Vending 2335 Nevada Ave No \$30
At Family Dollar Store

LIQUOR STORE

*El Tequila 4005 Central Ave \$6700 + \$300
*LaCasita Rest 5085 Central Ave \$6700

CLUB LIQUOR & TEMP LIC

*Columbia Hts Lions Club 530 Mill St \$500 + \$400

WINE/BEER LICENSE

*Chipotle Mexican Grill 5200 Central Ave \$1,600

OFF SALE BEER

*Jeff's Bobby & Steves 3701 Central Ave \$200

CITY OF COLUMBIA HEIGHTS

FINANCE DEPARTMENT

AGENDA SECTION
ITEM NO.
MEETING DATE

CONSENT ITEMS
7K
November 13, 2017

COUNCIL MEETING OF: November 13, 2017 .

STATE OF MINNESOTA

COUNTY OF ANOKA

CITY OF COLUMBIA HEIGHTS

Motion: Move that in accordance with Minnesota Statute 412.271, subd. 8 the City Council has reviewed the list of claims paid covering check number 167928 through 168186 in the amount of \$ 1,246,649.09.

These checks have been examined and found to be legal charges against the CITY OF COLUMBIA HEIGHTS, and are hereby, recommended for payment.

```
*****  
* * * * * L E A N N O * * * * *  
* * * * * L E A N N O * * * * *  
* * * * * L E A N N O * * * * *  
* * * * * L E A N N O * * * * *  
*****
```

Report Selection:

Optional Report Title.....11/13/2017 COUNCIL LISTING

INCLUSIONS:

Fund & Account. thru
Check Date..... thru
Source Codes..... thru
Journal Entry Dates..... thru
Journal Entry Ids..... thru
Check Number..... 167928 thru 168186
Project..... thru
Vendor..... thru
Invoice..... thru
Purchase Order..... thru
Bank..... thru
Voucher thru
Released Date..... thru
Cleared Date..... thru
Include Exp/Rev Closing Entries N
Create Excel file & Download N

Run Instructions:

Jobq	Banner	Copies	Form	Printer	Hold	Space	LPI	Lines	CPI	CP	SP	RT
L	LEANNO	01		PRT04	Y	S	6	066	10	Y	Y	

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	AAA AWARDS	167928	10/25/17	185.80
	ACE HARDWARE	167929	10/25/17	6.24
	ADVANCED GRAPHIX INC	167930	10/25/17	125.25
	ALLINA HEALTH SYSTEMS	167931	10/25/17	175.00
	AMERICAN BOTTLING COMPAN	167932	10/25/17	414.30
	AMERIPRIDE LINEN INC	167933	10/25/17	129.47
	ARTISAN BEER COMPANY	167934	10/25/17	3,553.01
	ASSURED SECURITY INC	167935	10/25/17	352.00
	ASTLEFORD INTERNATIONAL	167936	10/25/17	68.31
	BARNA GUZY & STEFFEN LTD	167937	10/25/17	14,342.00
	BELLBOY BAR SUPPLY	167938	10/25/17	621.40
	BELLBOY CORPORATION	167939	10/25/17	940.85
	BERNICK'S WINE	167940	10/25/17	2,299.10
	BRADLEY LAW LLC	167941	10/25/17	556.25
	BREAKTHRU BEVERAGE MN BE	167942	10/25/17	5,655.85
	BREAKTHRU BEVERAGE MN W&	167943	10/25/17	15,248.66
	BRP VETERINARY MINNESOTA	167944	10/25/17	529.00
	BUREAU OF CRIMINAL APPRE	167945	10/25/17	630.00
	CAPITOL BEVERAGE SALES L	167946	10/25/17	11,566.85
	CENTURYLINK	167947	10/25/17	492.93
	CHAMBERLAIN OIL COMPANY	167948	10/25/17	488.95
	CITY PAGES	167949	10/25/17	1,045.00
	CITY WIDE WINDOW SERVICE	167950	10/25/17	53.00
	COLUMBIA HEIGHTS RENTAL	167951	10/25/17	98.54
	COMCAST	167952	10/25/17	1,958.43
	CREATIVE FORMS & CONCEPT	167953	10/25/17	653.42
	CRYSTAL SPRINGS ICE LLC	167954	10/25/17	287.36
	CUES INC	167955	10/25/17	2,150.00
	CUSHMAN MOTOR CO INC	167956	10/25/17	420.00
	DAHL/KEITH	167957	10/25/17	90.42
	DISGRUNTLED BREWING	167958	10/25/17	388.80
	DU ALL SERVICE CONTRACTO	167959	10/25/17	48.20
	ECM PUBLISHERS INC	167960	10/25/17	387.55
	FEDERAL EXPRESS	167961	10/25/17	109.20
	FIRST NATIONAL INSURANCE	167962	10/25/17	1,000.00
	FLEETPRIDE INC	167963	10/25/17	77.41
	G & K SERVICES INC	167964	10/25/17	89.15
	GENUINE PARTS/NAPA AUTO	167965	10/25/17	30.19
	GPRS	167966	10/25/17	50.00
	GREAT LAKES COCA-COLA DI	167967	10/25/17	874.28
	HANSON/ERIC	167968	10/25/17	56.60
	HEINRICH ENVELOPE CORP	167969	10/25/17	357.45
	HERRERA/MAYDA	167970	10/25/17	482.62
	HOHENSTEINS INC	167971	10/25/17	3,699.75
	HONDA/YUKIKO	167972	10/25/17	18.51
	INDEED BREWING COMPANY L	167973	10/25/17	1,621.50
	INNOVATIVE OFFICE SOLUTN	167974	10/25/17	491.66

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	J H LARSON ELECTRIC COMP	167975	10/25/17	54.60
	JJ TAYLOR DIST OF MN	167976	10/25/17	9,951.43
	JOHNSON BROS. LIQUOR CO.	167977	10/25/17	27,694.95
	KENNEDY & GRAVEN	167978	10/25/17	254.00
	LEAGUE OF MINNESOTA CITI	167979	10/25/17	45.00
	LOMPIAN WINES LLC	167980	10/25/17	270.00
	MACDONALD LLC/JASON	167981	10/25/17	100.00
	MENARDS - BLAINE	167982	10/25/17	117.60
	MENARDS CASHWAY LUMBER-F	167983	10/25/17	143.48
	MINNESOTA PREMIER PUBLCT	167984	10/25/17	1,071.00
	MN DEPT OF LABOR & INDUS	167985	10/25/17	10.00
	MN HIGHWAY SAFETY & RESE	167986	10/25/17	405.00
	MODIST BREWING CO LLC	167987	10/25/17	423.88
	MYAS	167988	10/25/17	1,728.00
	NORTHEASTER	167989	10/25/17	530.00
	OLSON/KAREN	167990	10/25/17	90.00
	ON SITE SANITATION INC	167991	10/25/17	1,468.00
	PAULUK/RICK	167992	10/25/17	251.16
	PHILLIPS WINE & SPIRITS	167993	10/25/17	6,346.48
	POINT EMBLEMS	167994	10/25/17	400.00
	RAVELING COMPANIES LLC	167995	10/25/17	1,280.00
	RED BULL DISTRIBUTION CO	167996	10/25/17	72.00
	RESPEC INC	167997	10/25/17	11,797.82
	ROTARY CLUB OF FRIDLEY-C	167998	10/25/17	209.00
	SAM'S CLUB	167999	10/25/17	180.00
	SCHAAF FLORAL	168000	10/25/17	63.99
	SECURE ITNET INC	168001	10/25/17	1,500.00
	SHORT ELLIOT HENDRICKSON	168002	10/25/17	3,200.00
	SOUTHERN GLAZER'S	168003	10/25/17	12,574.42
	STADUM/DEBRA	168004	10/25/17	11.86
	STAPLES ADVANTAGE	168005	10/25/17	141.27
	THYSSENKRUPP ELEVATOR CO	168006	10/25/17	72.54
	TIN WHISKERS BREWING CO	168007	10/25/17	448.49
	TITLE ONE,INC	168008	10/25/17	1,151.30
	TRIO SUPPLY COMPANY INC	168009	10/25/17	22.39
	TRUGREEN CHEMLAWN	168010	10/25/17	105.80
	TWIN CITY GARAGE DOOR CO	168011	10/25/17	135.00
	ULTIMATE MARTIAL ARTS	168012	10/25/17	1,228.46
	VANWYCK/ROBERT	168013	10/25/17	27.52
	VERIZON WIRELESS	168014	10/25/17	1,056.12
	VINOCOPIA INC	168015	10/25/17	619.50
	WAGNER/KYLE & HALLIE	168016	10/25/17	25.22
	WYANT/JULIE	168017	10/25/17	37.96
	XCEL ENERGY (N S P)	168018	10/25/17	18,624.98
	6TH ST PROPERTIES	168019	10/25/17	39.11
	NORTHEAST BANK CREDIT CA	168020	10/25/17	0.00
	ADVANCED DISPOSAL SERVIC	168021	11/01/17	128,360.00

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	AMERICAN BOTTLING COMPAN	168022	11/01/17	154.10
	AMERIPRIDE LINEN INC	168023	11/01/17	353.06
	ANOKA COUNTY LIBRARY	168024	11/01/17	3,043.40
	ANOKA CTY - CENTRAL COMM	168025	11/01/17	720.00
	ARTISAN BEER COMPANY	168026	11/01/17	1,003.70
	ASTLEFORD INTERNATIONAL	168027	11/01/17	173.88
	BAKER & TAYLOR	168028	11/01/17	4,766.94
	BELANGER/BRIANNA	168029	11/01/17	34.91
	BELLBOY BAR SUPPLY	168030	11/01/17	141.94
	BELLBOY CORPORATION	168031	11/01/17	915.90
	BERNICK'S WINE	168032	11/01/17	1,670.15
	BLUME BRAUHAUS LLC	168033	11/01/17	126.57
	BREAKTHRU BEVERAGE MN BE	168034	11/01/17	20,779.65
	BREAKTHRU BEVERAGE MN W&	168035	11/01/17	1,401.73
	BURNET TITLE	168036	11/01/17	1,207.20
	BURNS/KYLE	168037	11/01/17	152.00
	CAPITOL BEVERAGE SALES L	168038	11/01/17	6,383.85
	CENGAGE LEARNING INC	168039	11/01/17	330.63
	CENTER POINT ENERGY	168040	11/01/17	48.68
	CHAMBERLAIN OIL COMPANY	168041	11/01/17	1,392.00
	CINTAS FIRST AID-SAFETY	168042	11/01/17	424.97
	CITY WIDE WINDOW SERVICE	168043	11/01/17	128.00
	COLUMBIA HEIGHTS RENTAL	168044	11/01/17	321.00
	COLUMBIA HEIGHTS VOLUNTE	168045	11/01/17	97,584.73
	COMMERCIAL ASPHALT	168046	11/01/17	1,409.49
	CONDUENT INCORPORATED	168047	11/01/17	2,265.00
	COSMOS BREWING COMPANY L	168048	11/01/17	180.00
	CRYSTAL SPRINGS ICE LLC	168049	11/01/17	219.06
	DAKOTA COUNTY TECHNICAL	168050	11/01/17	400.00
	DALCO ENTERPRISES INC	168051	11/01/17	245.84
	ECM PUBLISHERS INC	168052	11/01/17	414.01
	ELECTRONIC MUSICAL INSTR	168053	11/01/17	198.00
	FASTENAL COMPANY	168054	11/01/17	101.26
	FERGUSON WATERWORKS INC	168055	11/01/17	1,473.90
	FLEETPRIDE INC	168056	11/01/17	10.02
	FOWLER/LINDA	168057	11/01/17	306.00
	G & K SERVICES INC	168058	11/01/17	161.47
	GOPHER STATE ONE CALL IN	168059	11/01/17	274.05
	GRAND SLAM SPORTS & ENT	168060	11/01/17	525.00
	G4S SECURE SOLUTIONS USA	168061	11/01/17	128.87
	HANSEN/JEREMY	168062	11/01/17	187.99
	HOHENSTEINS INC	168063	11/01/17	2,312.80
	HOME DEPOT #2802	168064	11/01/17	26.95
	HUBER/KATHY	168065	11/01/17	165.26
	INDEED BREWING COMPANY L	168066	11/01/17	150.60
	INFRARED HEATING SALES&S	168067	11/01/17	197.50
	INTEGRATED LOSS CONTROL	168068	11/01/17	409.00

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	JJ TAYLOR DIST OF MN	168069	11/01/17	5,989.60
	JOHNSON BROS. LIQUOR CO.	168070	11/01/17	18,586.56
	JUAREZ/VERONICA	168071	11/01/17	475.92
	KAMISH EXCAVATING INC	168072	11/01/17	49,468.00
	LEAGUE OF MN CITIES INS	168073	11/01/17	260,885.00
	MANSFIELD OIL COMPANY	168074	11/01/17	10,557.61
	MARCO, INC	168075	11/01/17	134.94
	MARKHAM/MATTHEW	168076	11/01/17	41.75
	MCDONALD DISTRIBUTING CO	168077	11/01/17	128.00
	MEDICINE LAKE TOURS	168078	11/01/17	1,003.00
	MENARDS CASHWAY LUMBER-F	168079	11/01/17	1.94
	MIDWAY FORD	168080	11/01/17	853.88
	MINNESOTA LIBRARY ASSOC.	168081	11/01/17	400.00
	MN DEPT OF COMMERCE	168082	11/01/17	1,622.49
	MN DEPT OF LABOR & INDUS	168083	11/01/17	20.00
	NORTHERN TECHNOLOGIES LL	168084	11/01/17	5,917.25
	OFFICE DEPOT	168085	11/01/17	412.95
	OLIPHANT BREWING LLC	168086	11/01/17	663.00
	ORKIN INC	168087	11/01/17	98.20
	PHILLIPS WINE & SPIRITS	168088	11/01/17	6,034.50
	RIDGETOP MARKETING GROUP	168089	11/01/17	79.70
	RIVER VALLEY RANCH	168090	11/01/17	1,560.00
	SEMLAK/DONNA	168091	11/01/17	470.40
	SHORT ELLIOT HENDRICKSON	168092	11/01/17	21,895.30
	SOUTHERN GLAZER'S	168093	11/01/17	28,856.03
	STREICHER'S GUN'S INC/DO	168094	11/01/17	389.88
	THOMPSON/ROBERT S	168095	11/01/17	4,290.00
	TOXALERT, INC.	168096	11/01/17	420.00
	TRUGREEN CHEMLAWN	168097	11/01/17	74.00
	TWIN CITY TILE & MARBLE	168098	11/01/17	657.00
	VERIZON WIRELESS	168099	11/01/17	490.14
	VIKING ELECTRIC SUPPLY	168100	11/01/17	806.68
	WARNING LITES OF MINNESO	168101	11/01/17	204.00
	WINE MERCHANTS	168102	11/01/17	451.47
	WSB & ASSOCIATES INC	168103	11/01/17	7,096.00
	ZERO GRAVITY TRMPOLINE P	168104	11/01/17	598.83
	ABM EQUIPMENT	168105	11/08/17	648.85
	ADVANCE COMPANIES OF MN	168106	11/08/17	951.00
	ALCOHOL & GAMBLING ENFOR	168107	11/08/17	60.00
	AMERICAN BOTTLING COMPAN	168108	11/08/17	156.07
	AMERIPRIDE LINEN INC	168109	11/08/17	129.47
	ANOKA COUNTY	168110	11/08/17	112.50
	ARTISAN BEER COMPANY	168111	11/08/17	1,370.95
	BELLBOY BAR SUPPLY	168112	11/08/17	931.95
	BELLBOY CORPORATION	168113	11/08/17	827.95
	BELSON OUTDOORS INC	168114	11/08/17	4,141.60
	BERNICK'S WINE	168115	11/08/17	1,575.90

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	BOURGEOIS/KELLI	168116	11/08/17	950.79
	BREAKTHRU BEVERAGE MN BE	168117	11/08/17	15,413.35
	BREAKTHRU BEVERAGE MN W&	168118	11/08/17	4,610.17
	CAPITOL BEVERAGE SALES L	168119	11/08/17	6,735.64
	CENTER POINT ENERGY	168120	11/08/17	634.94
	CENTURYLINK	168121	11/08/17	92.30
	COMMON CRAFT GROUP LLC	168122	11/08/17	145.00
	CONNOY/ALEX	168123	11/08/17	2,397.76
	DU ALL SERVICE CONTRACTO	168124	11/08/17	48.20
	EARL F ANDERSEN INC	168125	11/08/17	15.05
	ECM PUBLISHERS INC	168126	11/08/17	35.28
	FARNER-BOCKEN	168127	11/08/17	9,109.51
	FEHST/WALTER	168128	11/08/17	1,436.92
	FERGUSON WATERWORKS INC	168129	11/08/17	1,565.61
	FIRST STUDENT INC	168130	11/08/17	553.37
	FLEETPRIDE INC	168131	11/08/17	354.36
	FLEX COMPENSATION, INC	168132	11/08/17	125.00
	G & K SERVICES INC	168133	11/08/17	346.12
	GENUINE PARTS/NAPA AUTO	168134	11/08/17	274.13
	GREAT LAKES COCA-COLA DI	168135	11/08/17	446.45
	GRIMM/DANILETTE	168136	11/08/17	600.00
	G4S SECURE SOLUTIONS USA	168137	11/08/17	184.10
	HANSON/ERIC	168138	11/08/17	81.37
	HOHENSTEINS INC	168139	11/08/17	2,276.65
	HOME DEPOT #2802	168140	11/08/17	12.21
	HORWITZ INC	168141	11/08/17	647.28
	INDEED BREWING COMPANY L	168142	11/08/17	2,690.40
	INNOVATIVE OFFICE SOLUTN	168143	11/08/17	88.92
	INTERNATIONAL INST MUNIC	168144	11/08/17	160.00
	JJ TAYLOR DIST OF MN	168145	11/08/17	19,539.56
	JOHNSON BROS. LIQUOR CO.	168146	11/08/17	20,168.95
	KIWANIS COLUMBIA HTS-FRI	168147	11/08/17	205.20
	LEAGUE OF MINNESOTA CITI	168148	11/08/17	75.00
	LOE'S OIL COMPANY	168149	11/08/17	79.00
	LVC COMPANIES INC	168150	11/08/17	85.00
	MARCO, INC	168151	11/08/17	83.84
	MATTSON/TOM	168152	11/08/17	36.28
	MCCLELLAN SALES	168153	11/08/17	1,002.40
	MCDONALD DISTRIBUTING CO	168154	11/08/17	1,672.00
	MENARDS CASHWAY LUMBER-F	168155	11/08/17	50.65
	MIDWAY FORD	168156	11/08/17	96.35
	MILLNER HERITAGE VNYRD &	168157	11/08/17	54.00
	MINNEAPOLIS FINANCE DEPT	168158	11/08/17	132,777.93
	MINNESOTA EQUIPMENT INC	168159	11/08/17	100.49
	MN REC & PK ASSOC - MRP	168160	11/08/17	352.00
	MTI DISTRIBUTING	168161	11/08/17	276.13
	NATIONAL PUBLIC EMPLYR L	168162	11/08/17	200.00

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	NORTHERN TECHNOLOGIES LL	168163	11/08/17	2,037.16
	O'BRIEN/DANIEL	168164	11/08/17	25.03
	OLSON/STEVEN I	168165	11/08/17	63.24
	PHILLIPS WINE & SPIRITS	168166	11/08/17	1,845.77
	PICARD/ZACHERY	168167	11/08/17	32.87
	PLETCHER/JUSTIN	168168	11/08/17	40.17
	QUADY/DAVID	168169	11/08/17	200.00
	RED BULL DISTRIBUTION CO	168170	11/08/17	425.00
	RYDBERG/SCOTT	168171	11/08/17	730.00
	SETPOINT SYSTEMS CORPORA	168172	11/08/17	265.00
	SHURSON/ERIC	168173	11/08/17	141.99
	SOUTHERN GLAZER'S	168174	11/08/17	18,915.97
	T A SCHIFSKY & SONS INC	168175	11/08/17	1,071.28
	TENNANT COMPANY	168176	11/08/17	200.00
	THOMAS AND SONS CONSTRUC	168177	11/08/17	81,118.07
	TITLE ONE, INC.	168178	11/08/17	308.23
	TRIO SUPPLY COMPANY INC	168179	11/08/17	401.98
	TRUGREEN CHEMLAWN	168180	11/08/17	263.68
	UNIVERSITY OF MINNESOTA	168181	11/08/17	155.00
	VER-TECH INC	168182	11/08/17	99.30
	VERIZON WIRELESS	168183	11/08/17	35.01
	VINOCOPIA INC	168184	11/08/17	1,838.75
	WSB & ASSOCIATES INC	168185	11/08/17	698.52
	ZILLMER/JACKIE	168186	11/08/17	30.50
				1,246,649.09

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
REPORT TOTALS:				1,246,649.09

RECORDS PRINTED - 001261

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
101	GENERAL	158,033.90
201	PLANNING & INSPECTIONS	260.52
203	PARKVIEW VILLA NORTH	920.95
204	EDA ADMINISTRATION	288.56
212	STATE AID MAINTENANCE	3,694.98
213	PARKVIEW VILLA SOUTH	232.96
225	CABLE TELEVISION	1,085.20
240	LIBRARY	9,389.24
261	AFTER-SCHOOL PROGRAMS	3,380.54
371	TIF T4: KMART/CENTRAL AVE	24,383.25
376	TIF DISTRICTS A3/C7/C8	25,243.50
402	STATE AID CONSTRUCTION	113,687.40
408	EDA REDEVELOPMENT PROJECT FD	95.25
412	CAPITAL IMPROVEMENT PARKS	1,130.67
415	CAPITAL IMPRVMT - PIR PROJ	7,367.90
601	WATER UTILITY	139,693.95
602	SEWER UTILITY	6,195.39
603	REFUSE FUND	128,949.69
604	STORM SEWER UTILITY	1,702.49
609	LIQUOR	318,262.96
651	WATER CONSTRUCTION FUND	2,241.16
653	STORM SEWER CONSTRUCT. FUND	656.25
701	CENTRAL GARAGE	23,345.46
705	BUILDING MAINTENANCE	137.97
720	INFORMATION SYSTEMS	1,807.12
875	FISCAL AGENCY: GIS RANGER	11,797.82
881	CONTRIBUTED PROJECTS-REC	198.00
883	CONTRIBUTED PROJECTS-OTHER	456.01
884	INSURANCE	261,885.00
887	FLEX BENEFIT FUND	125.00
TOTAL ALL FUNDS		1,246,649.09

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BANK	CHECKING ACCOUNT	1,246,649.09
TOTAL ALL BANKS		1,246,649.09



AGENDA SECTION	PUBLIC HEARING
ITEM NO.	8A
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Public Hearing: Repeat Nuisance Call Service Fee Appeal		
DEPARTMENT:	Police	CITY MANAGER'S APPROVAL:	
BY/DATE:	Interim Chief Lenny Austin/11-7-2017	BY/DATE:	
CITY STRATEGY:	#1; Safe Community		
Additional Strategy?	#6: Excellent Housing/Neighborhoods		
SHORT TERM GOAL (IF APPLICABLE):	Choose an item.		
Additional Goal?	Choose an item.		

BACKGROUND:

Kenneth Hertz, the owner of 940 39th Avenue NE, has requested a hearing to dispute the Nuisance Call for Service Fee that was imposed on him regarding activities at that address. See the attached memo for detailed information regarding the issues at that address. Mr. Hertz's appeal letter is also attached.

STAFF RECOMMENDATION:

Staff recommends that the City Council uphold the Nuisance Call for Service Fee for 940 39th Avenue NE.

RECOMMENDED MOTION(S):

MOTION: Motion to uphold the \$250 Nuisance Call for Service Fee imposed on Kenneth Hertz, owner of 940 39th Avenue NE.

ATTACHMENTS:


- Memo re Repeat Nuisance Call Service Fee Appeal
- Kenneth Hertz's appeal request letter

COLUMBIA HEIGHTS POLICE DEPARTMENT



MEMORANDUM

To: Mayor Donna Schmitt
Members of the Columbia Heights City Council

From: Lenny Austin, Interim Chief of Police 

Subject: Request to Appeal Nuisance Call for Service Fee re: 17201782

Date: November 7, 2017

On September 25, 2017, the City of Columbia Heights received notification from Ken Hertz, the owner of 940 39th Avenue, advising the city that he is requesting to appeal the \$250.00 nuisance call for service fee to his property that occurred on September 1, 2017 (Case #17201782).

I have enclosed a copy of the Repeat Nuisance Call Service Fee Ordinance for your review. The ordinance states that the city may impose a repeat nuisance service call fee upon the owner and/or occupant of a private property if the city has responded to the property on three or more occasions within a period of 365 days in response to or for the abatement of nuisance misconduct. Nuisance misconduct is defined as any activity, conduct, or condition occurring upon the private property within the city that unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any member of the public; or will, or tend to, alarm, anger or disturb others or provoke breach of the peace to which the city is required to respond, including, but not limited to the following:

- An activity, conduct, or condition deemed as a public nuisance under any provision of the City Code.
- Any activity, conduct, or condition in violation of Minnesota Statute 609.33.
- Any conduct, activity, or condition constituting a violation of any Minnesota law prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and/or
- Any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of Minnesota Statutes.

Below is information regarding the incident resulting in this recent Repeat Nuisance Call for Service Violation:

On September 1, 2017, at approximately 7:30 am, Officers reviewed video of a burglary suspect going into a garage located in the 3800 block of Quincy Street. The burglary had occurred the day before on August 31, 2017. The video showed the suspect entering the garage, leaving the garage with stolen items and getting into a vehicle and leaving the scene. Officers started looking for the suspect and vehicle and at approximately 9:00 am, Officers stopped the suspect vehicle and determined that the owner of the vehicle lived at 940 39th Avenue, apartment 6. Based on the facts that CHPD had gathered, a search warrant was executed at the residence. Multiple items of drug paraphernalia were located inside the residence. The debris inside the drug paraphernalia tested positive for marijuana.

cc: Walt Fehst, City Manager
Kelli Bourgeois, Assistant to the City Manager

Attachment

ORDINANCE NO. 1568

**BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005
RELATING TO REPEAT NUISANCE CALL SERVICE FEE**

Chapter 8 of the Columbia Heights City Code will be amended to include the following:

ARTICLE VIII: REPEAT NUISANCE CALL SERVICE FEE

Section

- 8.801 Purpose
- 8.802 Scope and application
- 8.803 Definitions
- 8.804 Repeat nuisance service call fee
- 8.805 Notice
- 8.806 Right to appeal
- 8.807 Legal remedies nonexclusive
- 8.808 Applicability of repeat nuisance service call fee
- 8.809 Recovery of fee

§ 8.801 PURPOSE.

The purpose of this section is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this Section to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover that cost over and above the cost of providing normal law or code enforcement services and police protection city-wide.

§ 8.802 SCOPE AND APPLICATION.

This Section applies to all owners and occupants of private property which is the subject or location of the repeat nuisance service call by the City. This Section applies to any repeat nuisance service calls made by a City of Columbia Heights peace officer, part-time peace officer, community service officer, animal control and/or code enforcement officers.

§ 8.803 DEFINITIONS.

For purposes of this Section, the term “nuisance misconduct” means any activity, conduct, or condition occurring upon private property within the City that unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any member of the public; or will, or tend to, alarm, anger or disturb others or provoke breach of the peace, to which the City is required to respond, including, but not limited to the following:

(A) Any activity, conduct, or condition deemed as a public nuisance under any provision of the City Code;

(B) Any activity, conduct, or condition in violation of Minnesota State Statute 609.33;

(C) Any conduct, activity or condition constituting a violation of any Minnesota state law prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and/or

(D) Any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of Minnesota Statutes.

§ 8.804 REPEAT NUISANCE SERVICE CALL FEE.

(A) The City may impose a repeat nuisance service call fee upon the owner and/or occupant of a private property if the City has rendered services or responded to the property on three or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct.

(B) The repeat nuisance service call fee will be set forth in a resolution approved by the City Council. An additional amount may be imposed to reflect the salaries of police officers, community service officers, animal control and/or code enforcement officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property damaged as a result of the nuisance call, and the cost of any medical treatment of injured officers.

(C) A repeat nuisance service call fee imposed under this Section will be deemed delinquent if it is not paid within 30 days after the City mails the billing statement for the fee. The City will add a ten percent late penalty to a delinquent payment.

§ 8.805 NOTICE.

(A) No repeat nuisance service call fee may be imposed against an owner or occupant of property without first providing the owner or occupant with written notice of the two previous nuisance service calls which are the basis for the fee. The written notice must:

(1) Identify the nuisance conduct that previously occurred on the property, and the dates of the previous nuisance conduct; and

(2) State that the owner or occupant may be subject to a nuisance call service fee if a third nuisance service call is rendered to the property for any further nuisance conduct; and

(3) State that the City has the right to seek other legal remedies or actions for abatement of the nuisance or compliance with the law; and

(4) Be served personally; by U.S. Mail upon the owner or occupant at the last known address; or by posting the subject property.

§ 8.806 RIGHT TO APPEAL.

(A) When the City mails the billing statement for the repeat nuisance service call fee, the City will inform the owner or occupant of their right to request a hearing.

(B) The owner or occupant upon whom the fee is imposed must request a hearing within ten (10) business days of the mailing of the billing statement, excluding the day the statement is mailed. The request for a hearing must be in writing and delivered to the City Clerk. The hearing will occur within thirty (30) days of the date of the request. If the owner or occupant fails to request a hearing within the time and in the manner required under this Section, the right to a hearing is waived.

(C) The hearing will be conducted by the City Council in an informal manner. The Minnesota Rules of Civil Procedure and Rules of Evidence will not be strictly applied. After considering all evidence submitted, the City Council will make written Findings of Fact and Conclusions regarding the nuisance conduct and the imposition of the repeat nuisance service fee. The City Council will serve the Findings of Fact and Conclusions upon the owner or occupant by U.S. Mail within ten (10) days of the hearing.

(D) If the owner or occupant fails to appear at the scheduled hearing date, the right to a hearing is waived.

(E) Upon waiver of the right to a hearing under subdivision (2) or (4) or upon service of the City Council's Findings of Fact and Conclusions that the repeat nuisance call service fee is warranted, the owner or occupant must pay the fee imposed within ten (10) days.

§ 8.807 LEGAL REMEDIES NONEXCLUSIVE.

Nothing in this Section will be construed to limit the City's other available legal remedies, including criminal, civil, injunctive or others, for any violation of the law.

§ 8.808 APPLICABILITY OF REPEAT NUISANCE SERVICE CALL FEE.

The City may not impose a repeat nuisance service call fee against an owner or occupant for a police response relating to emergency assistance, including, but not limited to, domestic spousal and child abuse.

§ 8.809 RECOVERY OF FEE.

(A) If a repeat nuisance service call fee remains unpaid thirty (30) days after the billing statement is sent by the City, it shall constitute:

- (1) a lien on the real property where the violation occurred; or
- (2) a personal obligation of the owner or occupant in all other situations.

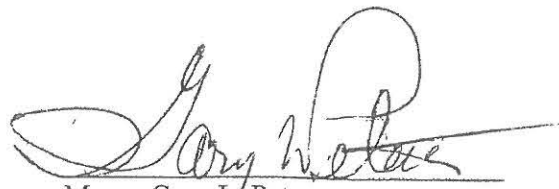
(B) A lien may be assessed against the property and collected in the same manner as taxes.

(C) A personal obligation may be collected by appropriate legal means.

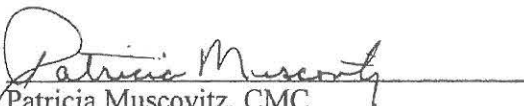
This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: August 10, 2009
Second Reading: August 24, 2009
Date of Passage: August 24, 2009

Offered by: Kelzenberg
Seconded by: Williams
Roll Call: Ayes: Peterson, Williams, Nawrocki, Diehm, Kelzenberg


Mayor Gary L. Peterson

Attest:


Patricia Muscovitz, CMC
City Clerk

HERTZ LAW OFFICES, P.A.
3853 CENTRAL AVE. N.E.
COLUMBIA HEIGHTS, MN 55421

OFFICE (612) 325-1161 FAX (763) 413-5174
email: kenhertzlaw@msn.com

May 23, 2017

Katie Bruno
City Clerk,
City of Columbia Heights

Email: Katie.bruno@ci.columbia-heights.mn.us

Re: appeal of notification of fine assessment for 940 39th Ave. N.E., Columbia Heights, MN, CHPD
#17093086

Dear Ms. Bruno:

Please be advised that ULLR, LLC has retained this firm in the above referenced matter. Please consider this letter the formal notice of appeal of the above referenced fine assessed to ULLR, LLC as required by Ordinance No. 1568, Article VIII §8.806. Please notify me as to the date and time of the hearing. If possible, could you schedule the hearing as far out as possible based on conflicts in current scheduling. If there is additional information you need, please let me know. Thank you for your assistance in this matter.

Sincerely,



Kenneth Hertz

HERTZ LAW OFFICES, P.A.
3853 CENTRAL AVE. N.E.
COLUMBIA HEIGHTS, MN 55421

OFFICE (612) 325-1161 FAX (763) 413-5174
email: kenhertzlaw@msn.com

September 25, 2017

Katie Bruno
City Clerk,
City of Columbia Heights

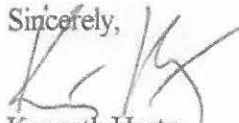
Email: Katie.bruno@ci.columbia-heights.mn.us

Re: appeal of notification of fine assessment for 940 39th Ave. N.E., Columbia Heights, MN, CHPD
#17201782

Dear Ms. Bruno:

Please be advised that ULLR, LLC has retained this firm in the above referenced matter. Please consider this letter the formal notice of appeal of the above referenced fine assessed to ULLR, LLC as required by Ordinance No. 1568, Article VIII §8.806. Please notify me as to the date and time of the hearing. If possible, could you not schedule the hearing in September or October based on conflicts in current scheduling. If there is additional information you need, please let me know. Thank you for your assistance in this matter.

Sincerely,


Kenneth Hertz



AGENDA SECTION	PUBLIC HEARINGS
ITEM NO.	8B
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Adopt Resolutions For Emergency Abatement		
DEPARTMENT:	Fire	CITY MANAGER'S APPROVAL:	
BY/DATE:	Gary Gorman	BY/DATE:	
CITY STRATEGY:	#6: Excellent Housing/Neighborhoods		
Additional Strategy?	#6: Excellent Housing/Neighborhoods		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

STAFF RECOMMENDATION:

Adopt Resolutions 2017-118 and 2017-120, being declarations of nuisance and emergency abatement of violations within the City of Columbia Heights regarding property at:

4329 Main Street N.E.

for ordinance violations pursuant to Chapter 8, Article II, of City Code

RECOMMENDED MOTION(S):

Move to close the public hearing and to waive the reading of Resolutions 2017-118 and 2017-120, there being ample copies available to the public.

Move to adopt Resolution Number 2017-118, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206.

Move to adopt Resolution Number 2017-120, being resolution of the City Council of the City of Columbia Heights declaring the property at 4329 Main St NE a nuisance and approving the emergency abatement of violations from the property pursuant to City Code section 8.206.

ATTACHMENTS:

- 2017-118 City Council Resolution – Emergency Abatement to Board Up and Secure 4329 Main Street N.E.
- 2017-120 City Council Resolution – Emergency Abatement to Board Up and Secure 4329 Main Street N.E.

RESOLUTION 2017-118

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Bart Mady (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4329 Main Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

FINDINGS OF FACT

1. That on October 27, 2017 the City of Columbia Heights responded to a complaint at the address listed above. Inspection determined that the structure was damaged, open, and unsecured.
2. That on October 27, 2017 the Fire Chief had his designee order Advanced Companies secure the structure.
3. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:
 - A. Approve the emergency abatement of the hazardous situation located at 4329 Main Street N.E.

CONCLUSIONS OF COUNCIL

1. That the property located at 4329 Main Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
2. That the emergency abatement of the hazardous situation located at 4329 Main Street N.E. is hereby approved.

ORDER OF COUNCIL

1. The property located at 4329 Main Street N.E. constitutes a nuisance pursuant to City Code.

Passed this 13th day of November, 2017

Offered by:

Second by:

Roll Call:

Mayor Donna Schmitt

Attest:

Katie Bruno, City Clerk/Council Secretary

RESOLUTION 2017-120

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Bart Mady (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4329 Main Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

FINDINGS OF FACT

1. That on November 8, 2017 the City of Columbia Heights responded to a complaint at the address listed above. Inspection determined that the structure was damaged, open, and unsecured.
2. That on November 8, 2017 the Fire Chief had his designee order Advanced Companies secure the structure.
3. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:
 - A. Approve the emergency abatement of the hazardous situation located at 4329 Main Street N.E.

CONCLUSIONS OF COUNCIL

1. That the property located at 4329 Main Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
2. That the emergency abatement of the hazardous situation located at 4329 Main Street N.E. is hereby approved.

ORDER OF COUNCIL

1. The property located at 4329 Main Street N.E. constitutes a nuisance pursuant to City Code.

Passed this 13th day of November, 2017

Offered by:

Second by:

Roll Call:

Mayor Donna Schmitt

Attest:

Katie Bruno, City Clerk/Council Secretary



AGENDA SECTION	PUBLIC HEARING
ITEM NO.	8C
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Resolution No. 2017-116, a Conditional Use Permit for assembly, manufacturing and/or processing on the property located 2301 37 th PL. NE.		
DEPARTMENT:	Community Development	CITY MANAGER'S APPROVAL:	
BY/DATE:	Elizabeth Holmbeck, 11/8/17	BY/DATE:	
CITY STRATEGY:	#2: Economic Strength		
Additional Strategy?	N/A		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND:

At this time, Gammada Urgessa on behalf of Akaku's Brew has requested a Conditional Use Permit to allow for processing of Daadhii, a traditional Honey Wine, on the property located at 2301 37th PL. NE., Columbia Heights, MN 55421. The applicant is proposing to lease the westernmost tenant space of the strip center. At this time, the tenant space is vacant. Historically however, the space has been used for commercial purposes. Assembly, manufacturing and/or processing require a Conditional Use Permit in the GB, General Business Zoning District.

Akaku's Brew has been produced locally for over 20 years. While the wine has currently been made in small batches at the applicant's home, they wish to expand their production and would like to start a small processing facility at the subject property. The applicant anticipates producing approximately 400 hundred 750 ml. bottles per month to be sold directly to distributors only. Overall, staff believes that this amount of production will have a minimal impact on the other commercial uses in the immediate vicinity. Staff has added 12 conditions to the permit to mitigate any potential impacts of the use.

On November 8th, 2017 the Columbia Heights Planning and Zoning Commission held a public hearing to consider a recommendation on the application. At the meeting there were no members of the public present with any questions or concerns about the application. The Planning and Zoning Commission voted unanimously to recommend approval of the Conditional Use Permit.

STAFF RECOMMENDATION:

The Comprehensive Plan guides this area for Commercial uses. The Zoning Code allows for assembly, manufacturing, and/or production as a conditional use on the subject property. Therefore, the proposed use of this property is consistent with the intent of the Comprehensive Plan and the Zoning Code. Staff believes the applicant meets the required findings of fact (outlined in the attached planning report) in order for the City Council to grant a Conditional Use Permit. Staff recommends that the City Council approve the proposed Conditional Use Permit for the processing of Daadhii (Honey Wine) at 2301 37th Place NE., subject to certain conditions outlined below.

RECOMMENDED MOTION(S):

Motion: Move to close the public hearing and waive the reading of Resolution 2017-116, there being ample copies available to the public.

Motion: That the City Council approve Resolution No. 2017-116, for a Conditional Use Permit for the processing of Daahdii (Honey Wine) for the property located at 2301 37th Place NE. (PIN 36-30-24-44-0012), subject to certain conditions of approval that have been found to be necessary to protect the public interest and ensure compliance with the provisions of the Zoning and Development Ordinance, including:

1. All required state, county and local codes shall be met and in full compliance.
2. The applicant must obtain necessary approvals from the Metropolitan Council (Sewer Accessibility Charge), the State of Minnesota Department of Agriculture and/or Minnesota Department of Health and/or Anoka County Health Department. The applicant will submit a copy of all necessary permits and allowances, prior to operation on the subject property.
3. All storage of waste material shall be located and screened in a manner consistent with the Zoning Ordinance. The applicant will submit a plan to the City Planner which shows how the trash receptacles will be screened.
4. The interior finish work is to be completed with review by the City's Building Official and if required, permits must be submitted to the Building Inspections Department.
5. If the tenant ever wishes to expand within the building, plans must be submitted to the Building Official for review and compliance with Building and Fire Code. Currently the applicant is proposing to occupy 1,500 sq. ft. of space in the building (commercial strip center). Occupying over 2,000 sq. ft. of space within the building would require a fire suppression system to be installed in the entire building.
6. All signage is issued administratively. Any signage for the business must be submitted to the Community Development Department to be reviewed and approved by the City Planner.
7. All production operations shall be within a completely enclosed structure (within the tenant space as outlined on the attached site plan).
8. By-products and waste from the production of the wine shall be properly disposed in an enclosed container.
9. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six (6) feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
10. No retail sales or sampling of any alcoholic beverage shall take place on the premise (tenant space).
11. Deliveries shall be limited to occur between the hours of 8:00 AM-8:00 PM, Monday-Saturday, and 10:00 AM-6:00 PM on Sunday.
12. If the nature of the assembly, manufacturing, and/or processing use changes (currently wine production), the property owner shall apply to have the Conditional Use Permit amended.

ATTACHMENTS:

Resolution No. 2017-116

Planning Report

Location Map

Application

Applicant's Narrative

Site Plan

Pictures

RESOLUTION NO. 2017-116

A resolution of the City Council for the City of Columbia Heights, Minnesota, approving a Conditional Use Permit for assembly, manufacturing, and/or processing on the property located at 2301 27th Pl. Ne., Columbia Heights, MN 55421.

Whereas, a proposal (Case # 2017-1101) has been submitted by Gammada Urgessa on behalf of Akaku's Brew to the City Council requesting a Conditional Use Permit from the City of Columbia Heights at the following site:

ADDRESS: (PIN 36-30-24-44-0012), known as 2301 27th Pl. Ne., Columbia Heights, MN 55421.

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING: A Conditional Use Permit per Code Section 9.110 (E) (3) (I), to allow for assembly, manufacturing, and/or processing on the property located at 2301 27th Pl. Ne., Columbia Heights, MN 55421.

Whereas, the Planning and Zoning Commission held a public hearing as required by the City Zoning Code on November 8th, 2017;

Whereas, the City Council has considered the advice and recommendations of the Planning and Zoning Commission regarding the effect of the proposed Conditional Use Permit upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

Now, therefore, be it resolved, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights makes the following:

FINDINGS OF FACT

Section 9.104 (H) of the Zoning Ordinance outlines nine conditions that must be met in order for the City Council to grant a Conditional Use Permit. They are as follows:

- (a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.
- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.
- (c) The use will not impose hazards or disturbing influences on neighboring properties.
- (d) The use will not substantially diminish the use of property in the immediate vicinity.
- (e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
- (f) The use and property upon which the use is located are adequately served by essential public facilities and services.
- (g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

- (h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
- (i) The use complies with all other applicable regulations for the district in which it is located.

Further, be it resolved, that the attached plans, maps, and other information shall become part of this Conditional Use Permit and approval; and in granting this Conditional Use Permit the City and the applicant agree that this permit shall become null and void if the project has not been completed within one (1) calendar year after the approval date, subject to petition for renewal of the permit. The Conditional Use Permit is subject to certain conditions of approval that have been found to be necessary to protect the public interest and ensure compliance with the provisions of the Zoning and Development Ordinance, including:

CONDITIONS

1. All required state, county and local codes shall be met and in full compliance.
2. The applicant must obtain necessary approvals from the Metropolitan Council (Sewer Accessibility Charge), the State of Minnesota Department of Agriculture and/or Minnesota Department of Health and/or Anoka County Health Department. The applicant will submit a copy of all necessary permits and allowances, prior to operation on the subject property.
3. All storage of waste material shall be located and screened in a manner consistent with the Zoning Ordinance. The applicant will submit a plan to the City Planner which shows how the trash receptacles will be screened.
4. The interior finish work is to be completed with review by the City's Building Official and if required, permits must be submitted to the Building Inspections Department.
5. If the tenant ever wishes to expand within the building, plans must be submitted to the Building Official for review and compliance with Building and Fire Code. Currently the applicant is proposing to occupy 1,500 sq. ft. of space in the building (commercial strip center). Occupying over 2,000 sq. ft. of space within the building would require a fire suppression system to be installed in the entire building.
6. All signage is issued administratively. Any signage for the business must be submitted to the Community Development Department to be reviewed and approved by the City Planner.
7. All production operations shall be within a completely enclosed structure (within the tenant space as outlined on the attached site plan).
8. By-products and waste from the production of the wine shall be properly disposed in an enclosed container.
9. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six (6) feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
10. No retail sales or sampling of any alcoholic beverage shall take place on the premise (tenant space).
11. Deliveries shall be limited to occur between the hours of 8:00 AM-8:00 PM, Monday-Saturday, and 10:00 AM-6:00 PM on Sunday.
12. If the nature of the assembly, manufacturing, and/or processing use changes (currently wine production), the property owner shall apply to have the Conditional Use Permit amended.

ORDER OF COUNCIL

Passed this 13th day of November, 2017.

Offered by:

Seconded by:

Roll Call:

Donna Schmitt, Mayor

Attest:

Katie Bruno, City Clerk/Council Secretary



**CITY OF COLUMBIA HEIGHTS
PLANNING AND ZONING COMMISSION
PLANNING REPORT**

CASE NUMBER: 2017-1101
DATE: November 8, 2017
TO: Columbia Heights Planning and Zoning Commission
APPLICANT: Gammada Urgessa, Akaku's Brew
DEVELOPMENT: Wine Production Shop
LOCATION: 2301 37th Pl. NE., Columbia Heights, MN 55421 (PIN 36-30-24-44-0012)
REQUEST: Conditional Use Permit for Assembly, Manufacturing and Processing
PREPARED BY: Elizabeth Holmbeck, City Planner

INTRODUCTION

At this time, Gammada Urgessa on behalf of Akaku's Brew has requested a Conditional Use Permit to allow for processing of Daadhii, a traditional Honey Wine, on the property located at 2301 37th Pl. NE., Columbia Heights, MN 55421. The applicant is proposing to lease the westernmost tenant space of the strip center. At this time, this tenant space is vacant. Historically however, the space has been used for commercial purposes. Assembly, manufacturing and/or processing require a Conditional Use Permit in the GB, General Business Zoning District.

Akaku's Brew has been produced locally for over 20 years. While the wine has currently been made in small batches at the applicant's home, they wish to expand their production and would like to start a small processing facility at the subject property. The applicant anticipates producing approximately 400 hundred 750 ml. bottles per month to be sold directly to distributors only.

ZONING ORDINANCE

The property located at 2301 37th Pl. NE is located in the GB (General Business) Zoning District. The properties to the South and West are also located in the General Business District. The property to the North is zoned LB (Limited Business). The property borders the City of St. Anthony to the East, with both residential and commercial uses. The proposal to produce Daadhii falls under assembly, manufacturing, and/or production, and requires a Conditional Use Permit in the General Business Zoning District.

COMPREHENSIVE PLAN

The Comprehensive Plan guides this area for Commercial uses. The Zoning Code allows for assembly, manufacturing, and/or production as a conditional use on the subject property.

Therefore, the proposed use of this property is consistent with the intent of the Comprehensive Plan.

DESIGN GUIDELINES

The subject property is not located in the Design Guidelines Overlay District.

SITE PLAN

The applicant submitted a Site Plan for the interior tenant space which describes the proposed location of the production equipment and supplies (mixing, fermentation and bottling), storage of the finished product, and delivery of supplies associated with the production of this product.

FINDINGS OF FACT

Section 9.104 (H) of the Zoning Ordinance outlines nine conditions that must be met in order for the City Council to grant a Conditional Use Permit. They are as follows:

- (a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.

Assembly, manufacturing and/or processing are specifically listed as a Conditional Use in the GB, General Business Zoning District.

- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.

The Comprehensive Plan designates this area for Commercial use. The proposed use is commercial in nature.

- (c) The use will not impose hazards or disturbing influences on neighboring properties.

According to the applicant, they anticipate producing approximately four hundred, 750 ml. bottles of Daahdii per month, and the finished product will only be sold to distributors. To ensure this, a condition has been added to the permit which prohibits any On/Off sale or sampling of the product on site. Due to the limited production, it is not anticipated that the use will impose any hazards or disturbing influences on neighboring properties.

As indicated in the applicant's narrative, there will be a small amount of residue generated by the production of the Honey Wine, which can, and will be disposed of in the regular trash receptacles provided on site. A condition of approval has been added to include the requirement of a screened trash receptacle located behind the building.

- (d) The use will not substantially diminish the use of property in the immediate vicinity.

Staff feels that to the contrary, since the space will now be occupied, the subject property is less likely to experience theft and vandalism. Also, this particular commercial strip center has historically seen tenant spaces vacant for periods of time and this new business will likely help to bring additional commercial activity and vibrancy to the strip center.

(e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

Excluding tenant signage, there will be no physical changes to the appearance of the existing building to accommodate the Daahdii wine processing facility. Plans to change the exterior signage will be reviewed administratively. The interior renovations proposed at this time are minimal including general cleaning, and painting. Any interior renovations that will require permits are to be submitted to the Building Inspection Department. Staff will work with the applicant throughout the process to ensure proper permitting is obtained.

(f) The use and property upon which the use is located are adequately served by essential public facilities and services.

This is correct.

(g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

The site will continue to utilize the existing ingress/egress routes. The applicant is only anticipating two-three persons at a time would be on site, which should have a minimal impact on the parking lot and overall pedestrian and vehicular function.

Deliveries of supplies will be made via the door located on the Northwest corner of the property, located in the back of the building (shown in Map E attached). A condition has been added restricting the delivery and/or distribution of product to the hours of 8:00 a.m. to 8:00 p.m. (Monday-Saturday), and 10:00 a.m. to 6:00 p.m. (Sunday).

(h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

There is no anticipated negative cumulative effect associated with the addition of the Daahdii wine processing facility at the subject property. The proposed CUP would allow for the applicant to produce approximately 400 bottles a month, or approximately 31 barrels a year, or 961 gallons a year. Overall, staff believes that this amount of production will have a minimal impact on the other uses in the immediate vicinity. Staff has added 12 conditions to the permit to mitigate any potential impacts of the use.

(i) The use complies with all other applicable regulations for the district in which it is located.

This is correct.

RECOMMENDATION

Staff recommends that the Planning and Zoning Commission recommend approval of the proposed Conditional Use Permit for the processing of Daahdii (Honey Wine) at 2301 37th Place NE., subject to certain conditions outlined below.

Motion: Move to close the public hearing and waive the reading of Resolution 2017-116, there being ample copies available to the public.

Motion: The Planning and Zoning Commission recommends that the City Council approve Resolution No. 2017-116, for a Conditional Use Permit for the processing of Daahdii (Honey Wine) for the property located at 2301 37th Place NE. (PIN 36-30-24-44-0012), subject to certain conditions of approval that have been found to be necessary to protect the public interest and ensure compliance with the provisions of the Zoning and Development Ordinance, including:

1. All required state, county and local codes shall be met and in full compliance.
2. The applicant must obtain necessary approvals from the Metropolitan Council (Sewer Accessibility Charge), the State of Minnesota Department of Agriculture and/or Minnesota Department of Health and/or Anoka County Health Department. The applicant will submit a copy of all necessary permits and allowances, prior to operation on the subject property.
3. All storage of waste material shall be located and screened in a manner consistent with the Zoning Ordinance. The applicant will submit a plan to the City Planner which shows how the trash receptacles will be screened.
4. The interior finish work is to be completed with review by the City's Building Official and if required, permits must be submitted to the Building Inspections Department.
5. If the tenant ever wishes to expand within the building, plans must be submitted to the Building Official for review and compliance with Building and Fire Code. Currently the applicant is proposing to occupy 1,500 sq. ft. of space in the building (commercial strip center). Occupying over 2,000 sq. ft. of space within the building would require a fire suppression system to be installed in the entire building.
6. All signage is issued administratively. Any signage for the business must be submitted to the Community Development Department to be reviewed and approved by the City Planner.
7. All production operations shall be within a completely enclosed structure (within the tenant space as outlined on the attached site plan).
8. By-products and waste from the production of the wine shall be properly disposed in an enclosed container.
9. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six (6) feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
10. No retail sales or sampling of any alcoholic beverage shall take place on the premise (tenant space).
11. Deliveries shall be limited to occur between the hours of 8:00 AM-8:00 PM, Monday-Saturday, and 10:00 AM-6:00 PM on Sunday.

12. If the nature of the assembly, manufacturing, and/or processing use changes (currently wine production), the property owner shall apply to have the Conditional Use Permit amended.

ATTACHMENTS

Resolution No. 2017-116

Location Map

Application

Applicant's Narrative

Site Plan



Pictures

COLUMBIA HEIGHTS

Community Development Department
590 40th Ave. NE, Columbia Heights, MN 55421

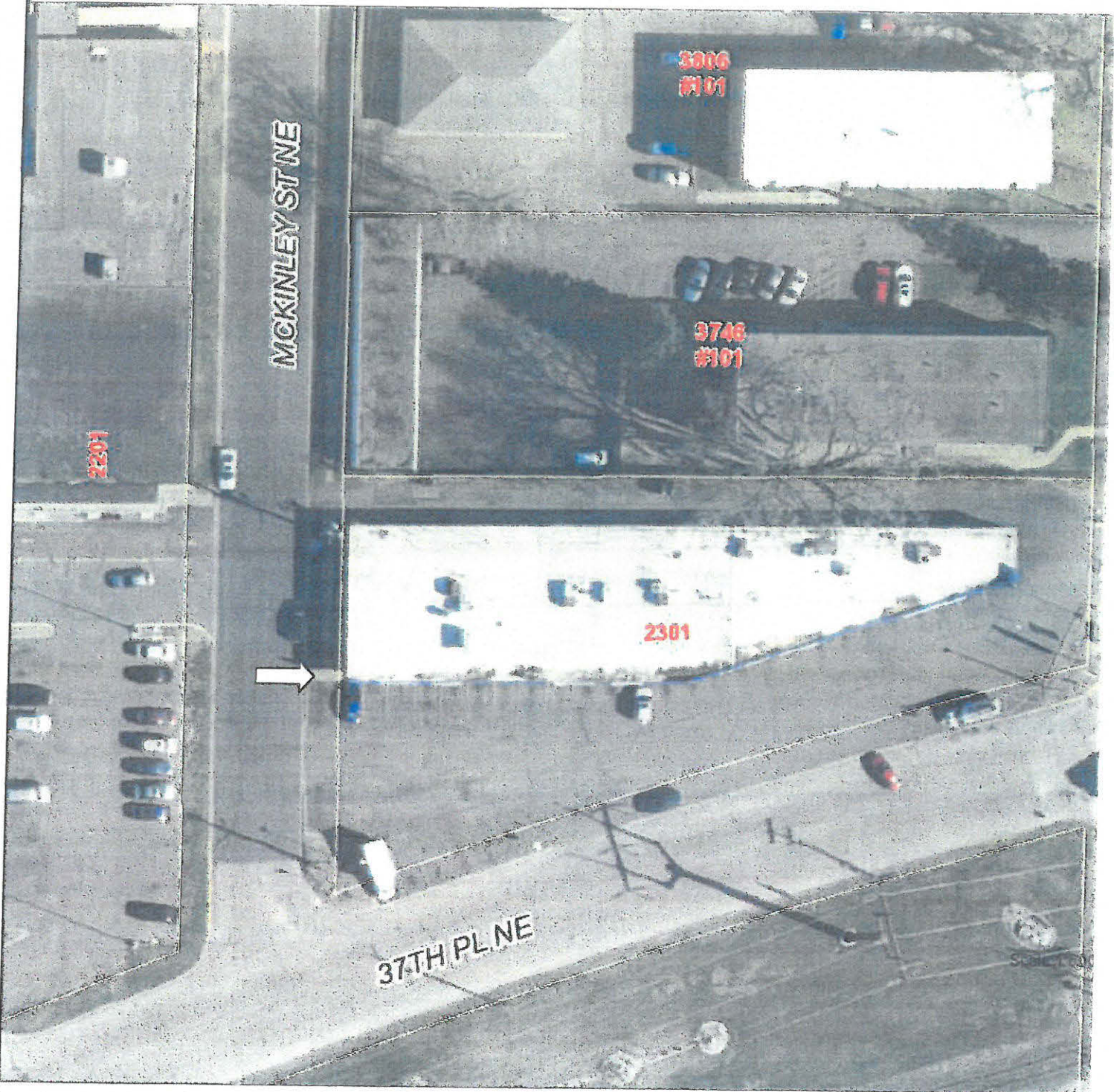
CONDITIONAL USE PERMIT APPLICATION - ORDINANCE NO. 9.104 (H)

This application is subject to review and acceptance by the City. Applications will be processed only if all required items are submitted.

PROPERTY INFORMATION		
Project Address/Location: <u>2301 37th Place NE Columbia Heights, MN 55421</u>		
Legal Description of property: _____		
Present use of property: <u>Vacant</u>		
Proposed conditional use of property: <u>Manufacturing Daadhi (honey wine)</u>		
PROPERTY OWNER (As it appears on property title):		
Company/Individual (please print): <u>Kvasnik Properties LLC</u>		
Contact Person (please print): <u>David Kvasnik</u>		
Mailing Address: <u>2190 Marshall Ave St Paul</u>		
City: <u>St Paul</u>	State: <u>MN</u>	Zip: <u>55104</u>
Daytime Phone: <u>651 647 0478</u>	Cell Phone: <u>651 647 0478</u>	
E-mail Address: <u>wickershop@comcast.net</u>		
Signature/Date:  <u>9/27/17</u>		
APPLICANT:		
Company/Individual (please print): <u>AKAKU'S Brew</u>		
Contact Person (please print): <u>Gammada Urgessa</u>		
Mailing Address: <u>1730 Hollywood Ave NE</u>		
City: <u>Minneapolis</u>	State: <u>MN</u>	Zip: <u>55418</u>
Daytime Phone: <u>612-964-6039</u>	Cell Phone: <u>612-965-0900</u>	
E-mail Address: <u>akakusbrew@gmail.com</u>		
Signature/Date:  _____		



2301 37th Avenue



COLUMBIA HEIGHTS

REASON FOR REQUEST (please attach a written narrative describing the intended use of the property and justification for your request. Describe any modifications and/or limitations of the use that have been made to insure its compatibility with surrounding uses and with the purpose and intent of the Zoning Ordinance and the Comprehensive Plan.)

FOR OFFICE USE ONLY

CASE NO: 2017-1101

APPLICATION REC'D BY: E. Holmbeck

DATE APPLICATION REC'D: 10-2-17

\$200.00 APPLICATION FEE REC'D: yes

RECEIPT NUMBER: 65717

Approved by Planning & Zoning Commission on _____

Approved by City Council on _____

Revised June 2017

Akaku's Brew Narrative

- I. Akaku's Brew is a local family owned company that has been making Daadhii (Mead) in small personal batches using 5-6 gallon fermenting buckets and sanitized glass carboys for more than 20 years. Daadhii is a traditional beverage consumed during major celebrations in our culture such as weddings, concerts and etc.

The recipe has been in existence for over thousands of years, but our specific technique has been in the family for generations. We recently became an LLC in order to commercially produce our traditional daadhii. We are requesting a Conditional Use Permit to utilize the space for manufacturing Daadhii.

- II. **Describe the process.**

Ingredients: Water, Honey, Yeast.

Tools: Thermometer, hydrometer, Mixing tank, Fermentation tank, Stirring tool, Sanitizing products

- A. The process for making Daadhii starts with Sanitization. All tools, parts and materials, that come in contact with any ingredient must be sanitized thoroughly to mitigate any spoilage. Once sanitization is ensured, the process commences with mixing honey and filtered water (this is called must) in a tank. Roughly 1-2 quarts of honey are used per gallon of water.
- B. Once the must is completely mixed and has settled, pour must into the fermentation tank.
- C. Now we prepare the yeast for addition to the must. In order to activate (proof) the yeast, the yeast must be added to water heated to approximately 105-110F. This brings the yeast to life and prepares it for growth without shock. The must will stay in here for approximately two weeks.
- D. The temperature of the must is checked to ensure it is not too cold which will delay the growth of activated yeast or too hot which can kill the yeast. Temperature of the Must is closely monitored

- E. The airlock on top fermentation tank will start bubbling within a day or two. This means the yeast is working well. And this will go on for as long as two weeks. When the bubbling has stopped or slowed down significantly the daadhi is ready for bottling.
- F. Once the Daadhii is bottled in standard 750 ml bottles, it is corked and sealed.
- G. All batches will be cataloged and tracked accordingly to ensure uniformity and to allow for safe testing and extraction if necessary. A small glass carboy of each batch will be kept for quality assurance purposes.

III. How much wine will you be producing and where do you typically distribute it to?

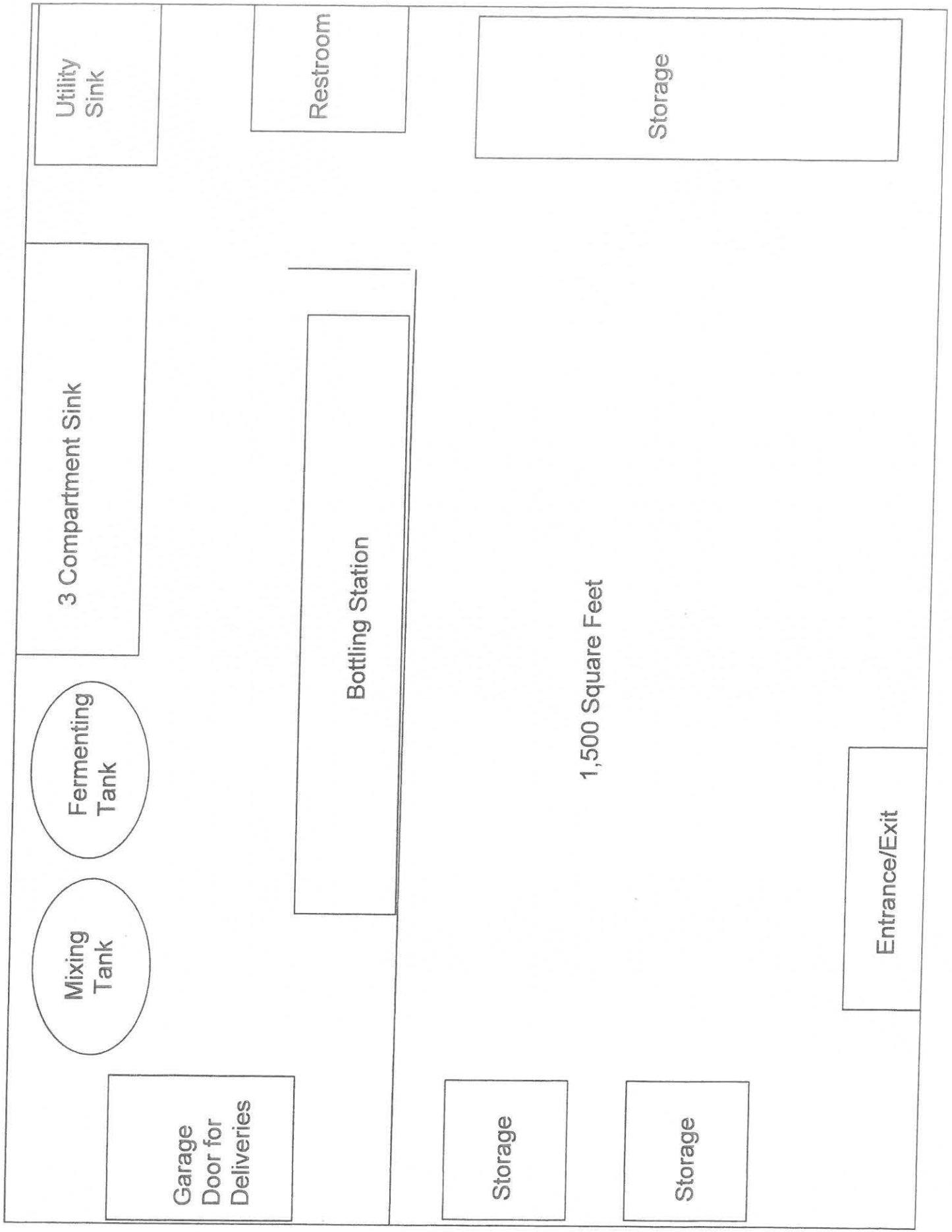
Since we are a startup we don't have previous data but we are planning to produce approximately 400 bottles a month. We are going to sell the finished product to distributors.

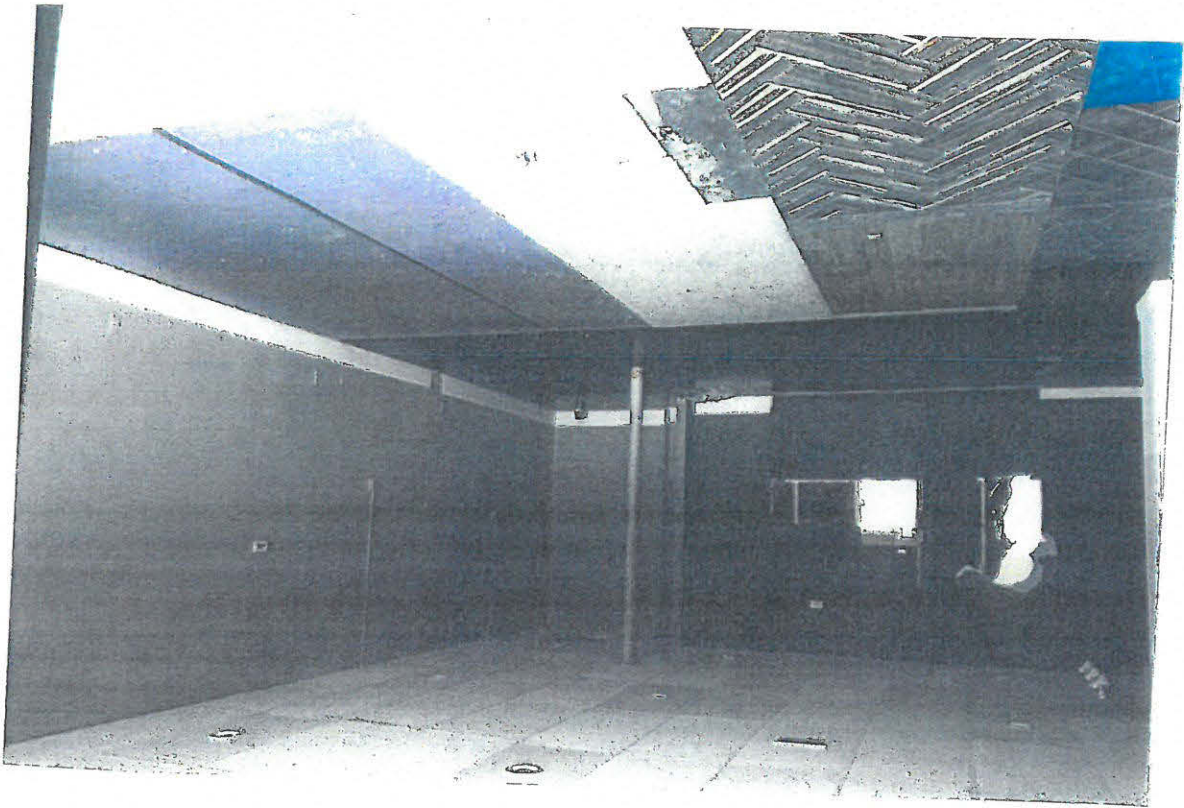
IV. How will you dispose of any waste associated with the process?

The only waste from this process is small amount of residue which can be put in a plastic bag and disposed with regular garbage.

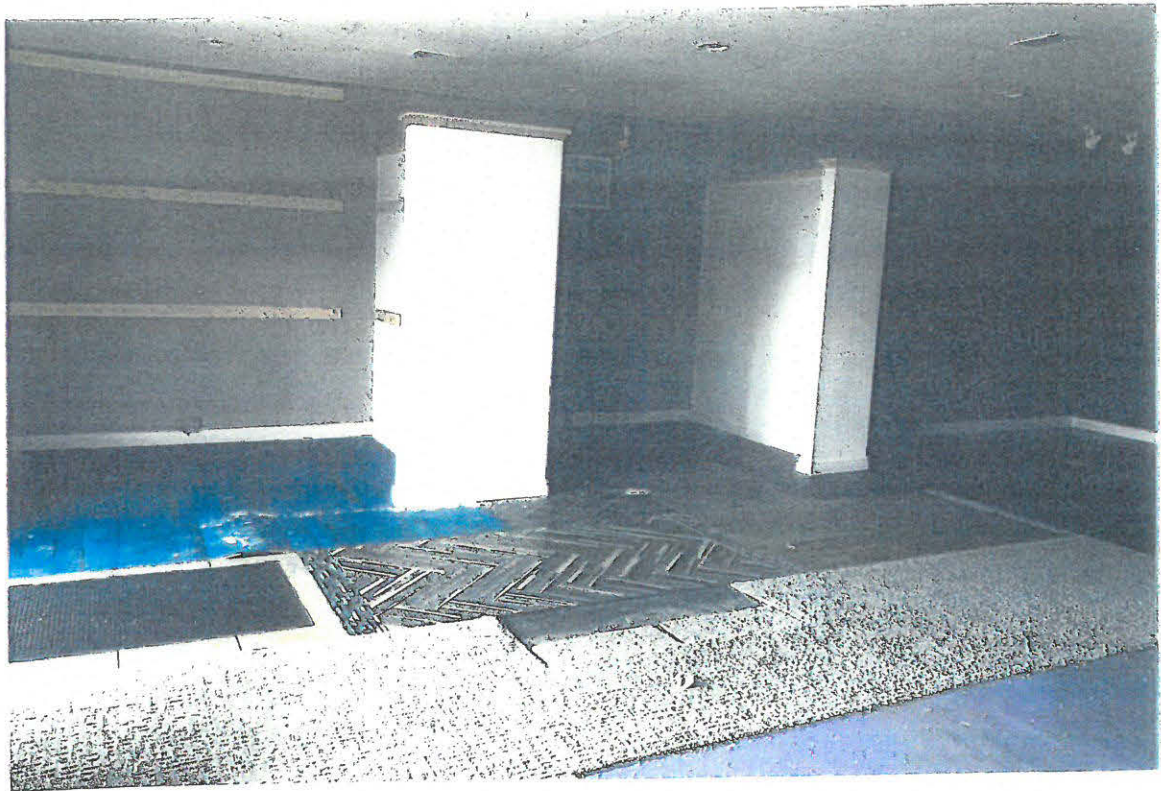
V. Describe the licensing process. Who will license the operation? (Count and State)

According to the FAA Act under the guidance of the Alcohol and Tobacco Tax and Trade Bureau (TTB), you must first establish winery premises (which is why we need the conditional use permit), then we can, obtain a bond, and receive permission from TTB to operate. (See 27 CFR part 24, subpart D.) Subsequent licensing must be approved by the State's Commissioner with appropriate fees and bonding.











AGENDA SECTION	CONSENT
ITEM NO.	9Aa
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	HVAC MAINTENANCE PROPOSALS		
DEPARTMENT:	PUBLIC WORKS	CITY MANAGER'S APPROVAL:	
BY/DATE:	KEVIN HANSEN/November 6, 2017	BY/DATE:	
CITY STRATEGY:	N/A		
Additional Strategy?	Choose an item.		
SHORT TERM GOAL (IF APPLICABLE):	Choose an item.		
Additional Goal?	Choose an item.		

BACKGROUND: The City of Columbia Heights has had a contractual relationship with Horwitz N/SI for preventive maintenance service on building HVAC since November 2009. The service contract included only preventive maintenance on City Buildings and hourly rates for emergency services. Major repairs or replacement of HVAC equipment is addressed on an as-needed basis through the City procurement policy. A one-year contract extension from January 1, 2017 through December 31, 2017 was approved for City facilities.

An RFP was prepared to include preventive maintenance services on all City buildings and to provide rates for emergency service on a time and materials basis. The intent was to obtain the best pricing by not including equipment replacement and/or major repairs under a long term contract. With the relatively newer age of most of our primary building HVAC, the most cost effective strategy is to continue to fund the replacements and major repairs of HVAC equipment separately. The public facilities in the RFP included: City Hall, Library, Public Safety, Murzyn Hall, Municipal Services Center, Liquor Stores (3), Water Pump Stations, Sewer Lift Stations, and Park Buildings. In an effort to discern what the marketplace offered for competitive prices, the RFP was sent out to the following vendors:

1. McDowell Company
2. Yale Mechanical Services
3. Legend Companies
4. NAC Mechanical & Electrical Services
5. Horwitz

Completed RFP's were received 10/31/17 from:

1. Horwitz
2. Yale Mechanical Services
3. Legend Companies
4. McDowell Company *

After the initial review of all four RFP's, Legend Companies was eliminated because of the high cost, and McDowell Company was eliminated because of non-response to portions of the RFP.

Proposal costs are provided on the following chart for years 1-3 annually as required in the RFP, and for the 3-year total:

Proposer	Year 1	Year 2	Year 3	3 Year Total
Horwitz	49,848	49,848	49,848	149,544
Yale Mechanical Services	56,650	56,650	56,650	169,950
Legend Companies	60,000	60,000	60,000	180,000
McDowell Company*	69,432	69,432	69,432	208,296

The approved 2017 contract rate is \$58,308.

STAFF RECOMMENDATION: Staff recommends contracting with Horwitz because of the following:

- Competitive price and lowest total cost over the 3-year term.
- Experience in refrigeration servicing (e.g. coolers at liquor stores)
- Online tracking portal for maintenance requests, issues and completion of tasks.
- Flat rate for time/material services
- Complete response to Scope of Services request.

RECOMMENDED MOTION(S): Move to accept the bid for HVAC Preventive Maintenance Services from Horwitz for City facilities, based upon their low, qualified, responsible bid and, furthermore, to authorize the Mayor and City Manager to enter into a 3-year contract for the same.

ATTACHMENT(S): None



AGENDA SECTION	CONSENT
ITEM NO.	9Ab
MEETING DATE	NOVEMBER 13, 2017

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	SOLAR GARDENS SUBSCRIPTIONS		
DEPARTMENT:	PUBLIC WORKS	CITY MANAGER'S APPROVAL:	
BY/DATE:	KEVIN HANSEN/November 6, 2017	BY/DATE:	
CITY STRATEGY:	#2: Economic Strength		
Additional Strategy?	#3: Affordability		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?	N/A		

BACKGROUND:

When initially presenting on solar power for the City in 2015, staff discussed three options with the council:

- MIM – Made in Minnesota Program
- Rooftop Solar
- Community Gardens

Subsequently, the Council approved solar contracts under the first two programs for four City buildings; Top Valu I, Public Safety, Public Works, and the new Library – which are all now operational.

Solar Gardens:

Solar gardens are similar to rooftop solar except the gardens are often physically located in the same county as the city or an adjoining county. The gardens are limited to 1 megawatt in size and each garden may have multiple subscribers. Under this program, the City would receive a monthly credit from Xcel Energy and pay the developer monthly, based on our subscription. There is no out-of-pocket cost to the City for the subscription.

Staff has continued to investigate solar gardens as a 3rd option for potential electrical energy savings.

Earlier in 2015, a consortium of government entities that included 31 cities formed to evaluate community gardens in the metro area. In July of 2015 the consortium formed a lottery for solar garden subscriptions led by the Metropolitan Council, Hennepin County, Ramsey County, and the City of Minneapolis. The lottery process was completed in January of 2016. The City of Columbia Heights was awarded (4) 200kW subscriptions with two different developers, 400kW with US Solar and 400kw with Geronimo Energy. Both subscriptions were for 25 years with no renewal and require a Letter of Intent.

Xcel Energy electric rates have increased an average of 3.3% over the past 15 years. The two developers (above) each have different subscription contracts. Geronimo offered \$0.01 less than the cost of the solar produced. This would only save the city around \$6,000.00 annually. US Solar offered a flat rate of \$0.1179 with an escalated rate of 1% every year. Staff's review of this offering was that it benefitted the solar investor more than the City and was not pursued further.

In 2017, New Energy Equity offered the city a solar garden subscription with a flat rate subscription of

\$0.113, with **no** escalator. This means that we would pay the same monthly rate throughout the 25 year contract to the developer. Attached is a pro forma with different yearly rate increases highlighted in yellow. Depending on Xcel Energy rate increases, the City could save \$600,000 to \$900,000 over the 25 year period. This subscription offers a higher rate of savings to the City over time.

STAFF RECOMMENDATION:

There are no upfront costs to the City for the subscription above. A third party investor purchases, installs, and operates the systems. The City then purchases the renewable energy at a reduced rate.

Staff recommends signing a Letter of Intent for entering into a contract with New Energy Equity based upon the subscription contract, the savings offered from a flat rate vs. the average rate increases in the cost of electricity from Xcel Energy, and the long term monetary benefit to the City.

RECOMMENDED MOTION(S): Move to sign a Letter of Intent for entering into a 25 year contract with New Energy Equity of Annapolis, MD for a flat rate subscription and authorize the Mayor and City Manager to enter into an agreement for the same.

ATTACHMENT(S): New Energy Equity Pro forma

Model Inputs

PPA Rate:	\$	0.1130
Yearly Escalator:		0.00%
Bill Credit	\$	0.1030
Grid Escalator:		2.75%
REC	\$	0.02
Total Bill Credit (Year 1)	\$	0.1230

Total Subscription (kWh):	1,920,000
Term (Years:)	25
Degradation Factor:	0.50%

Year	Total kWh	Bill Credit*	REC	PPA Rate	Bill Savings= kWh x (Bill Credit + REC)	Solar Payments= PPA x kWh	Annual Savings	Cumulative Savings
Year 1	1,920,000	\$0.1030	\$0.02	\$0.1130	\$236,160	\$216,960	\$19,200	\$19,200
Year 2	1,910,400	\$0.1058	\$0.02	\$0.1130	\$240,390	\$215,875	\$24,515	\$43,715
Year 3	1,900,848	\$0.1087	\$0.02	\$0.1130	\$244,721	\$214,796	\$29,925	\$73,640
Year 4	1,891,344	\$0.1117	\$0.02	\$0.1130	\$249,153	\$213,722	\$35,431	\$109,071
Year 5	1,881,887	\$0.1148	\$0.02	\$0.1130	\$253,690	\$212,653	\$41,036	\$150,108
Year 6	1,872,478	\$0.1180	\$0.02	\$0.1130	\$258,333	\$211,590	\$46,743	\$196,851
Year 7	1,863,115	\$0.1212	\$0.02	\$0.1130	\$263,085	\$210,532	\$52,553	\$249,404
Year 8	1,853,800	\$0.1245	\$0.02	\$0.1130	\$267,949	\$209,479	\$58,469	\$307,873
Year 9	1,844,531	\$0.1280	\$0.02	\$0.1130	\$272,926	\$208,432	\$64,494	\$372,368
Year 10	1,835,308	\$0.1315	\$0.02	\$0.1130	\$278,020	\$207,390	\$70,630	\$442,998
Year 11	1,826,131	\$0.1351	\$0.02	\$0.1130	\$283,233	\$206,353	\$76,880	\$519,878
Year 12	1,817,001	\$0.1388	\$0.02	\$0.1130	\$288,568	\$205,321	\$83,246	\$603,125
Year 13	1,807,916	\$0.1426	\$0.02	\$0.1130	\$294,026	\$204,294	\$89,732	\$692,856
Year 14	1,798,876	\$0.1466	\$0.02	\$0.1130	\$299,612	\$203,273	\$96,339	\$789,196
Year 15	1,789,882	\$0.1506	\$0.02	\$0.1130	\$305,328	\$202,257	\$103,071	\$892,267
Year 16	1,780,932	\$0.1547	\$0.02	\$0.1130	\$311,176	\$201,245	\$109,931	\$1,002,197
Year 17	1,772,028	\$0.1590	\$0.02	\$0.1130	\$317,160	\$200,239	\$116,921	\$1,119,118
Year 18	1,763,168	\$0.1634	\$0.02	\$0.1130	\$323,283	\$199,238	\$124,045	\$1,243,163
Year 19	1,754,352	\$0.1678	\$0.02	\$0.1130	\$329,547	\$198,242	\$131,306	\$1,374,469
Year 20	1,745,580	\$0.1725	\$0.02	\$0.1130	\$335,957	\$197,251	\$138,706	\$1,513,175
Year 21	1,736,852	\$0.1772	\$0.02	\$0.1130	\$342,514	\$196,264	\$146,250	\$1,659,425
Year 22	1,728,168	\$0.1821	\$0.02	\$0.1130	\$349,223	\$195,283	\$153,940	\$1,813,366
Year 23	1,719,527	\$0.1871	\$0.02	\$0.1130	\$356,087	\$194,307	\$161,781	\$1,975,146
Year 24	1,710,929	\$0.1922	\$0.02	\$0.1130	\$363,109	\$193,335	\$169,774	\$2,144,920
Year 25	1,702,375	\$0.1975	\$0.02	\$0.1130	\$370,293	\$192,368	\$177,925	\$2,322,845

Average Xcel Energy Minnesota Retail Rate Change 2000-2015

