

AGENDA
MONTHLY MEETING OF
THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD
OF THE CITY OF CHATTANOOGA, TENNESSEE

Monday, September 16, 2024 @ 12:30 PM

1. Call to Order.
2. Confirmation of Meeting Advertisement and Quorum Present.
3. Election of Vice-Chair for the Board.
4. Approval of the Minutes for the July 22, 2024, monthly meeting.
5. Recognition of Persons Wishing to Address the Board.

6. **Espero Chattanooga Project Refunding Bond Issuance**

A resolution authorizing amendment in connection with the Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, Collateralized Multifamily Housing Bonds (Espero Chattanooga Project) Series 2023 and authorizing issuance of refunding bonds. **(HEB-2024-15)**

7. **The Simpson Organization (TSO)-Market City Center PILOT**

A resolution ratifying the action taken by the Chair and Secretary for the execution of a Joinder and First Amendment to Deed of Trust, Assignment, Security Agreement and Fixture Filing regarding the \$20 million promissory note related to the TSO Chattanooga Development, LP, Payment in Lieu of Taxes Agreement with the Health, Educational, and Housing Facility Board. **(HEB-2024-16)**

8. **Chattanooga Neighborhood Enterprise (CNE)**

A resolution authorizing the Administrator for the Department of Economic Development to enter into an agreement, in substantially the form attached, with Chattanooga Neighborhood Enterprise (CNE) and provide \$500,000.00 from the HEB Affordable Housing Fund to continue programs ensuring availability of and accessibility to affordable housing, expanding access to financial resources, and empowering residents to advocate for their neighborhoods. **(HEB-2024-17)**

9. Presentation by Sandra Gober on the Annual Report of HEB PILOT and Affordable Housing Fund Programs.

10. Other Business-Discussion.

(a) Update from Martina Guilfoil (CNE) and Attorney Kurt Faires on the EPA Brownfield Remediation on 12 of the 34 PILOT units for Mill Town due to lead contamination and replatting.

(b) FYI – Report on Debt Obligation for the Erlanger Health System Revenue Bonds, Series 2024, in the amount of \$319,410,000.00.

11. Adjournment.



HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD
City of Chattanooga, Tennessee
MONTHLY MEETING MINUTES
John P. Franklin, Sr. Council Building
J.B. Collins Conference Room
1000 Lindsay Street
Chattanooga, TN 37402
for
Monday, July 22, 2024
12:30 p.m.

Present were Board Members: Hicks Armor (Chair), Richard Johnson (Secretary), Andrea Smith, Brian Erwin, Hank Wells, and Dr. Patti Skates. Absent was Johnika Everhart.

Also, present were Phillip A. Noblett (Counsel to the Board); Richard Beeland (ECD); Janice Gooden (CALEB); Helen Burns Sharp (ATM); Kelsey Wilson (Nelson Community Partners); Steve Barrett (Husch Blackwell LLP); and Josh McCutcheon (Finance).



Chair Armor called the meeting to order, confirmed the meeting advertisement, and established that a quorum was present to conduct business.



MINUTES APROVAL FOR THE JUNE 17, 2024, MONTHLY MEETING

On motion of Mr. Wells, seconded by Mr. Erwin, the June 17, 2024, minutes for the monthly meeting were amended by Ms. Smith. Ms. Smith made a correction on the June 17, 2024, meeting minutes on page two. After it says the TEFRA hearing, add also that Ms. Smith worked for Erlanger Hospital for 28 years and wanted to make that noted and has since retired. The minutes were unanimously approved as amended.

Attorney Noblett said that this was involving a TEFRA hearing and we have another one coming up today. The purpose for that is to establish that when you are voting on something whether there might be some sort of personal financial interest that you might have that would affect voting one way or another. Ms. Smith is retired but not currently employed by Erlanger Hospital. If she had been at the meeting, she could have announced that there, and there would be a discussion. The group today is Airport Landing and will be conducting a TEFRA hearing on that as well.

Last month's meeting was the initial TEFRA hearing on a bond issuance for Erlanger. At this point in time, Erlanger is coming to this Board to seek bonds to be issued to allow them to have a lower interest financing.



PUBLIC COMMENTS

Helen Burns Sharp, Founder **Accountability for Taxpayer Money (ATM)**

Ms. Helen Burns Sharp is involved with ATM, which is a public interest advocacy group that focuses on tax incentives and on government transparency. Ms. Sharp used to be a regular at the meetings and there really has been no need for her to be here. One of the reasons Ms. Sharp came back ten years ago, five years ago, we went through a period in Chattanooga where the Board was given PILOTs that seemed to her, she could not figure out the benefit to low and moderate income that they were saying they were but you wondered and setting aside units, maybe they were not being monitored not our finest hour. What Ms. Sharp has sensed in reading in the paper is that this Board is really fully committed to affordable housing and that the current housing staff with the City is taking housing affordability very seriously. We definitely have come up a notch and that things are in good shape. There are a couple of things that Ms. Sharp hopes the Board will discuss in the future.

In The Bend Development Agreement, which is a TIF and this Board is typically dealing with PILOTs, it is the same kind of thing that they wrote in their Development Agreement that they had committed to providing 10% of affordable housing that any housing that they built or if they sold it to other private developers they would have to do 10%, but they added in the final product some language that said but if we don't want to, we can sort of buy our way out and pay some money into the City's Affordable Housing Fund. Which to Ms. Sharp sort of negates the idea about having a little mixed income housing and don't have the affordable housing over here and the market rate and upscale housing over here. That was sort of the concept. The idea yes, our Affordable Housing Fund is always nice to get an infusion of funds, but I think that is something that when your PILOT program for housing kicks in, pay attention to that whether or not you want to because unfortunately it is going to be the case that some people sign on to this and think that it is great because they are going to get a tax break, we really don't want those people in our unit, but we will be glad to write a check so the City can benefit somewhere else.

In the jobs PILOT program that is managed by the Industrial Development Board, they are done on a sliding scale where you get a ten year PILOT at 100% the first year, then 80%, and 60%, and 50% or whatever. On the HEB it is 100% for the entire 10 years I believe. Chairman Armor said it can vary but it is not sliding. Whatever it is continues out. Think a little bit about that. The reason this matters is not that these incentives are bad and this is going to help because the private sector had not been doing much affordable housing this is a way to get some more, but on the other hand remember that we have a lot of abuse in the City, anything that is colored is not paying the taxes the way you and I are and small businesses are because of TIFs which are in red and PILOTs are in green, and all of this is government-owned property. What happens is that the cost of

providing basic services continues to go up, but the more money we are abating through PILOTs or diverting TIFs, means that the burden falls more on the rest of us and it could increase the likelihood of a tax increase and some of those are inevitable anyway. Just always keep that in mind that we want to incentivize some things that we think have public benefit like jobs and affordable housing, but we need to be able to have firefighters and police officers and good parks and things like that. We need to be conservative about the General Fund.

Ms. Sharp had a chart that she gave to the Industrial Development Board and the City Council and County Commission and would be delighted if this Board would be interested in this. Chair Armor wanted this to be included in our Annual Report to a large degree because of your work and previous board member, we do an audit of all of the PILOTs every year and present it annually. Ms. Sharp's graph is a great representation and puts it into perspective.

Finally, what Ms. Sharp would discuss is a lot of times when she does not get to meetings, she will watch the streaming and the Industrial Development Board meetings are all streamed and we have the capability of streaming in this room as well. Ms. Sharp thinks this Board is as important as the IDB and when you realize that the Beer Board meetings are streamed, I think the HEB meetings should be streamed. Also, Ms. Sharp said Attorney Noblett did some good things where years ago on the IDB where on the City Attorney website you created a category for the IDB and put the agendas and minutes on there. What about doing that for the HEB? We can do that for the HEB.

Chairman Armor said that they noticed that the AMI had gone up significantly and the Board has expressed a concern that with it being as high as it is that still leaves a lot of people below that number that when you base the rent on that, if you are making \$25,000 a year you do not have the money to qualify for it. We noticed this several months ago and sent a letter to the Mayor and Council a letter calling that to their attention. It is great that the AMI has increased, but you still have the people who cannot afford housing and not that that is a contribution to the homeless problem, but we were raising that to their concern to show them that we still need to make sure we try to have housing for those who are well below the AMI. Chairman Armor appreciates all of Ms. Sharp's contributions. Mr. Johnson said it is always nice to see her and she is welcome anytime.

Mr. Johnson said when we talked about The Bend and they wanted to have that buyout, did they give a reason why? Ms. Sharp said she thinks when they start to sell to other developers that the other developer says I don't know about that because they have their model in mind and maybe their model heretofore does not have an affordability component. Maybe they may say well I don't know about that. Like on the stadium project, one of the developers Core was asked at an IDB meeting or by the Council is any of this going to be affordable and they said that is not our model and we did not push back. We are giving significant incentives because we are kind of like in the driver's seat and need to make sure there is public benefit if we are doing these incentives. Ms. Sharp is not saying the buyout is totally a bad idea but it sort of undermines the purpose of having a mixture of housing. It is a fundamental policy issue that the Board needs to discuss.



RESOLUTION

On motion of Mr. Wells, seconded by Dr. Skates,

A RESOLUTION OF THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, DECLARING ITS INTENTION TO ISSUE TAX-EXEMPT MULTIFAMILY HOUSING BONDS IN ONE OR MORE SERIES IN AN AGGREGATE AMOUNT NOT TO EXCEED TEN MILLION DOLLARS (\$10,000,000.00) TO FINANCE THE ACQUISITION, ADAPTIVE REHABILITATION, AND EQUIPPING OF APPROXIMATELY EIGHTY (80) MULTIFAMILY RENTAL DWELLING UNITS IN CHATTANOOGA, TENNESSEE, TO BE KNOWN AS AIRPORT LANDING, AND FOR RELATED PURPOSES, AND DECLARING ITS INTENTION TO SUPPORT THIS PROJECT AND THE CONCEPT OF THIS BOND ISSUANCE AFTER CONSIDERATION OF THE DONATION AGREEMENT BY THE CHATTANOOGA CITY COUNCIL TO WOODBINE COMMUNITY ORGANIZATION, INC. AND THE CONTINUATION OF THIS MULTIFAMILY HOUSING PROJECT GOING FORWARD. (HEB-2024-14)

TEFRA HEARING

Attorney Noblett said that the federal government under their Treasury Regulations requires there to be published in the paper at least seven days prior to this type of hearing in a newspaper of general circulation the fact that there may be tax exempt bonds that would be issued by this body. This body has the power under state law to be able to issue those bonds and the notice was in the paper in this case the actual last page of your handout shows that this notice of public hearing was put in the Times-Free Press on July 14th which is more than seven days before this hearing on July 22nd.

The purpose of this hearing is just to consider the issuance of the bonds whether it is appropriate or not, is it something that will be good for the City if these bonds are approved but the proceeds would be loaned to a group called Airport Landing LP and it is a Tennessee Limited Liability Company for the purpose of financing a building that is the Airport Inn that would be low and moderate income permanent supportive housing for folks that really need it in our community.

This entity would be handling a multifamily residential facility that has approximately 80 units that would be available in our community and these bonds would be \$10 million would help facilitate that facility being renovated and being able to be run. Mr. Richard Beeland will give the presentation and is working with the Airport Landing people.

Mr. Richard Beeland gave a presentation. In 2021, the City purchased the old Airport Inn using ARPA dollars with the intent to turn it into permanent supportive housing. We issued an RFP in 2023 and were unsuccessful in selecting a vendor or partner to help us do that. Earlier this year, we reissued the RFPs and have selected a partner to hopefully renovate and operate a permanent supportive housing facility at the old Airport Inn. We are also meeting with the community there to explain what we are doing and get their input and feedback, and we will be doing that later this week. Council will have this on their agenda coming up in a week and we will determine if what they are doing is donating the property to Airport Landing LP for this purpose.

Ms. Kelsey Wilson with Nelson Community Partners will talk a little bit about what the project is. Nelson Community Partners is an affordable housing community development firm based in Nashville. We have been doing this work for eight years as a firm but have collectively over 30 years of experience and on this particular project we are partnering with Woodbine Community Organization which is a Nashville based non-profit that also has decades of experience of affordable housing and a strong focus on permanent supportive housing. They own and operate Magnolia Gardens.

Overview

The company includes three people and is a small team and does a lot of work in partnership with other organizations, a lot of churches and non-profits. A couple of examples of their projects. (inaudible) Manor is a permanent supportive housing project in Knoxville. Spiritus will be a senior housing development in Nashville and will break ground at the end of the year. Cleveland Court is just down the road. Park Commons is a mixed income development next to Nashville's new soccer stadium at the fairgrounds.

Woodbine has deep experience in this particular type of housing. They operate a lot of shared living and are really familiar with that kind of community dynamic. We have Shopworks Architecture as a design consultant. We will work with a Chattanooga based firm for full design and construction, but Shopworks has a really much practice in trauma informed design to help integrate that into all of their plans understanding that people who have experienced homelessness have also experienced a lot of traumas and their physical environment is really integral in that healing process.

Emerald Housing Management will be the property manager. They also operate Magnolia Gardens and have a lot of experience with this population as well. All the images are very conceptual and illustrative in their initial take on what might happen at the site. The intent is to create 75 units of permanent supportive housing. One of those will be an onsite manager's unit, a two-bedroom. Seventy of the units will be studios and four one-bedrooms which sort of maximizes the current setup of the building.

Part of their intent is to create sort of new resident entry that is really centralized with strong access control and strong resident interfaced with staff. Also a community hub where they will have case management space for onsite supportive services, resident programming, in the manager's unit.

With their development vision, drawing on the principles of trauma design, there is really strong focus on safety. That could rely on security surveillance but we find it creating a strong sense of community which is actually the most effective preventative form of safety. Having that centralized point of access in creating ways for residents to build community within their neighborhoods and strong relationships with staff as well as the community and CPD.

We find investing in things at the front end yields better results in the long term. Not doing things the cheapest way and focusing on being cost effective but really investing in durable materials and something is going to last and create a strong sense of dignity and really focusing on choice. Especially for residents, you do not often have a lot of control over their environment such as temperature, lighting, sound, within their own residential unit, and choices on how they can engage with their neighbors and the staff.

Our services plan will be spearheaded by Woodbine. They provide services but are really focused on creating a network. We are not interested in reinventing the wheel and we know there are strong organizations here in Chattanooga already. We will be looking to create a network of service providers that can use the building as sort of hub to convene things that the residents might need and having case management on a 1-25 ratio.

Their role will be to oversee property management and have developed a really great process for moving to ongoing operations and really trying to reinforce not just getting folks into housing but having them successfully thrive in what is really permanent supportive housing. This is not intended to be a transitional environment. We hope that folks if they choose to move onto a mainstream market housing, at some point we will be able to do so but really the goal is to keep people permanently and stably housed here.

With regard to the financials, they are anticipating a mortgage that will be most likely a CITC loan which is a state program that allows for lower interest rates and community tax credit. The LIHTC equity is the piece that we are here about today. We have the anticipated land donation from the City, we have applied for a grant through the Federal Home Loan Bank of Cincinnati and will hear about that later this year, and we will defer a portion of the developer fee that will be paid out through the operations of the project. We have the acquisition which again is a net neutral line item. We are expecting around \$7 million in construction costs, including contractor fees and overhead soft costs. All of their design and engineering, financing fees, legal, and the developer fee which a portion of that will be deferred and stay in the project, and funding operational reserves.

We are a couple of months in currently filling out the application and stakeholder engagement fees. We are hoping to kickstart the design and engineering in the next couple of weeks. Their LIHTC application is due at the end of this month. We are hoping to be able to close all of the financing by the end of the year and start construction at the start of 2025. We currently project a 9-12 month construction window allowing for some flexibility in the rehab environment. We feel really confident about that timeframe. Their goal is to be operational by the end of 2025. Obviously, a lot of things have to fall into place for that to happen but that is the goal we are aiming for.

Mr. Erwin had a few questions about the development and also the construction elements. Firstly, you explained how Woodbine and Nelson Community will be overseeing it all but that you would be using a local contractor or construction company, will that be presented in the language that a local contractor will be selected? Ms. Wilson said that she does not know that it has a place right now in the Donation Agreement. Local funds and local contractors would be used.

With regard to the 80 units, are all of those single bedroom units or multi. Ms. Wilson said that 75 total units. One of them is a two bedroom manager's unit that currently exists as an owner/operator in the motel. There is a set of units that are currently sort of two room units and intend to make those true one-bedrooms. There will be four, one-bedroom apartments, and the remaining will be studios. They will be intended for single occupancy but could accommodate a couple and those range from 220-268 sq. ft. They are very efficient and will have a kitchenette and private bathroom. One of the amenities will include a community kitchen. The units themselves probably won't have a full oven but folks will be able to microwave, cooktop, in their own units and then use the community kitchen for more.

Mr. Johnson asked in reference to the neighbors that you are going to meet with them what are the expectations there and are the representatives going to be there as well. Mr. Beeland said they are going to be there along with the City. The last time we did this, we did meet with the community, and what came out of that was a commitment to the community and it is included in the Donation Agreement about things that we are guaranteeing that we will do such as security, work with police, work with CARTA, and different things like that in the donation. That is something we have done and we are going to be meeting with them and will report back.

Ms. Smith wanted to make sure she understood the different units. There are 75 total units, one on-site manager which will be a two-bedroom, and the others would be one-bedroom with the capability of making it expanded if needed? Ms. Wilson said there will be four one-bedroom units and 70 studio units. They are currently applying through the Chattanooga Housing Authority for project based vouchers. Seventy-four of those are everything except the manager's unit, and are project based housing assistance. Residents will pay 30% of their income and the voucher will make up the difference. The project itself is really financially sustainable but the residents will only have to pay that affordable portion of whatever income they have.

Mr. Erwin asked if you have proposed what that rental rate is looking like? Ms. Wilson said it will be based off the small area fair market rent which updates every year. Chair Armor said but the individual going into it would not pay more than 30% of their income. Ms. Wilson said correct. Which goes back to the purpose that it hits a lower end which is important.

Chair Armor asked who determines who goes in there. There are applications whatever, who does that vetting to see who goes in? Ms. Wilson said it will be done through the coordinated entry system which is managed by the COC. Part of their Friday meetings is with the Homeless Coalition. This will come through that coordinated entry process for all of the eligibility criteria. We anticipate that the folks are coming directly from homelessness. It will be the first priority but will make sure there are ways to seek referrals from other community agencies.

Ms. Smith also said that is what she was kind of picking up since the units were basically more for one individual that it seems something like more for single person and you are working through the homeless shelter and the other agencies here to help provide you all with these types of clients which will be using the voucher system. That they are already able to participate in but just do not have the housing to use. Ms. Wilson said the vouchers will be tied to the units themselves. Someone would not have to go through the CHA to get a tenant based voucher and they typically would go find a landlord who would make that unit available. Someone will be able to access that benefit simply by moving into the unit attached to the apartment.

Mr. Beeland said the bus line is a few blocks away from it so that is what we are trying to address and how we are going to work with CARTA to make sure there is transportation available. Chair Armor said essentially this was a hotel. Motel room with probably one bed versus two and a bathroom. They will have a small kitchen so you really got essentially what you and I would think of as a single hotel room that is 200 sq. ft. or something like that. But at least it gives them a permanent place, which is important.

Ms. Wilson said Woodbine would be the lead agency and will help identify a local partner. We are happy to work directly with an existing agency to build their capacity to fill that role if that is the best solution. That is what they will be spending the next year doing. The similar projects that were shown, are they similar type of model? Ms. Wilson said yes, the one (inaudible) Manor in Knoxville is a Volunteer Ministry Center (VMC) are the owner/operator and service provider, and Emerald provides the property management. It is separating the property management function which is really a concern with the best interest of the property and the service for resident. All utilities are owner paid.

After further discussion, Woodbine will be the coordinating agency for case management. If there is not a local agency that is able or willing to take that on, Woodbine is able to do so. The case managers will be employed by either Woodbine or a local agency. They will be staffed at the building but not employed. It could be Woodbine who is a non-profit and most likely be a non-profit agency whether Woodbine or an existing local non-profit.

Ms. Smith did case management and knows those services are very important but are hard to come by. Depending on who provides them how good the services would be and since you are dealing with a certain population of people, the case management part is going to be very important. We can have all the housing there is but if we do not have somebody to manage the needs of the clients or people, it is just a structure. Part of the benefit of the project based vouchers is that it sets the project up to be able to continually provide those services. The case management staffing is budgeted into the operations of the building as it stands. Not relying on outside fundraising. Mr. Beeland said that it was really important for them to have that as permanent supportive housing is a component audit of the design and will always be there.

Mr. Erwin had a question regarding the community hearings. When would that be scheduled for this week? Attorney Noblett said this is one opportunity for the public to be here as well because that notification went out seven days before this meeting.

This Board acts on behalf of the City to either approve or recommend that they get the bonds which is why they come to us which is also why it is a public hearing. If someone felt strongly that the City should not be doing this, then people are going to approve, it is this Board and is the right place to come. The hearing for the area is one thing but the approval is here. A number of times Ms. Sharp has come and represented the community. She comes to this Board regarding PILOTs. The purpose of us having the hearing is because we are the ones that are supposed to at the end say we agree with the purpose of it.

After further discussion, Mr. Beeland said that the Donation Agreement goes before Council and will happen next. If for some reason the Council would vote down the Donation Agreement, then this would never happen. This is for the issuance of the bonds related to the project. After further discussion, Attorney Noblett said that the power of this Board under state law is to be able to issue those bonds. The City can issue General Obligation Bonds for the benefit of the community but this issue is specifically for housing. Today is just the public hearing. This Board takes it out of the public arena so it is not being approved or declined by the commission. They delegate that to this Board. The notice gave people the opportunity to appear at the hearing today or send in written comments. We did not get any comments.

Ms. Janice Gooden represents CALEB but is a District 8 resident and understands that this is in District 6. Ms. Gooden has been following it remotely. There is a definite need for this type of housing. Ms. Gooden cannot speak to the financial part but thinks that the Board is asking the right questions about the case management and the process. What happens is you have a lot of barriers for trying to get this type of service done and people think nothing is being done but there is a definite need. From Ms. Gooden's perspective, she thinks it needs to move forward.

Attorney Noblett says that this facility has been vacant for about three years and we are dealing with a 1980's motel that will be converted into assistance housing for folks that really need it. It is an important issue to consider because it puts something back on the tax records and typically the hotels are fairly well-made.

All the Board is doing at this point in time is declaring your intention to issue that and waiting for public hearings in the City. The City has to donate the property or the deal does not work.

The TEFRA hearing has been held, you have a resolution but do not know whether they would prefer the Board to actually say this is a good thing for the community or not by any type of motion. Mr. Johnson asked should we wait for the results of the vetting of the neighbors. Chair Armor said he thinks you can or if the members feel like this is something they would like to put approval on at least conceptually because the Board is not voting on the bonds. All you are doing is saying that you agree with the concept, but it does not have a whole lot of teeth in it. You can, we do not have to, and it is up to the Board.

Mr. Wells said that we drafted a letter to the Mayor and Council supporting projects like this and at the very least it seems we should go on record as being supportive of the concept so that the Council knows that is where we are. Mr. Wells made this in the form of a motion that we are supportive of the concept and that we believe it should go forward, Dr. Skates seconded.

Mr. Erwin is in favor of making it known that we are in favor of the concept, he would like more information on the \$10 million price tag. He was running some numbers on development costs and construction costs and \$90,000 for 222 sq. ft. units seems high. He is not an estimator but would like to get more information about the development cost.

Ms. Wilson said the \$10 million is also sort of a cap. We can request up to that amount. There is a function of the LIHTC that is the 50% test. We need to make sure we have enough capacity that depending on where our final construction numbers come in, the bonds have to account for at least half. That is usually why we ask for more than we anticipate needing. We do want to make sure we are budgeting enough to not only rehab the units but furnish them.

Mr. Wells said that when we meet again to discuss approval of the bonds, we will have the opportunity at that time to approve the final financial plan too. Today is conceptual. Other than construction, operational costs are huge in a project of this nature because part of the purpose is to help people get their feet on the ground and become or return to be contributing members of the community. What funds the services portion? Who is going to fund the social services component? Ms. Wilson said the project will. Those numbers were strictly the development budget and not the operating budget but effectively because the project based assistance are sufficient to cover operating expense of the project including the debt service as well as debt service coordination. Because the debt service will be lower, the additional equity that the tax credits and other grants bring allows them to keep the debt service as low as possible so it frees up more of that operating revenue. That is why we are able to do that, but really is the project based rental assistance.

The effectiveness and value of the investment we are making is totally dependent upon the successful nature of the social services component to allow the people to be productive. It is important that that piece be as appropriately funded as is the construction cost of it. Ms. Smith says to make sure there is a good foundation with the local agencies that already provide these services. A lot of the participants in the program already have case management services like the AIM Center possibly or the Homeless Coalition. You would have to have a margin of oversight even with those who do have the case management that is assigned. There definitely has to be a cohesiveness with that or it is very easy for people to drop off and get neglected or overlooked because of the type of people we are dealing with who those needs are so important, it could mean the difference in them being successful.

The motion carried.

ADOPTED

OTHER BUSINESS-DISCUSSION

Dr. Skates had a question with regard to this, do we, or what do we, is it part of our purview to seek out organizations like this to come in and either build or if we have other hotels/motels in town. She is trying to get (inaudible) towers. They are going into cities and taking older hotels/motels and setting them up. Is there a way that we could find out how many homeless veterans we have that we could pursue something of that nature to give bring them on say here would be a good place?

Chairman Armor said that this Board was set up to do more than approval than to seek out. After further discussion, if we see the need it is important for us to communicate that. Not to get in the acquisition piece of it. The City has the departments, resources, relationships with organizations to do that, but if there is something that we can push forward like the housing for those below the AMI, it is appropriate for us to call it to somebody's attention or go to the housing authority.

Attorney Noblett said if you hear someone who wants to donate property to get in touch with Richard Beeland's group because if they are a private property owner the only way the City could actually get involved is by a condemnation. If there is an ability of folks that see the need and are willing to enter into a Donation Agreement, see what it is doing, then we can solicit from there on how that would work.



After further discussion, Mr. Erwin made a motion to adjourn the meeting, with no second, and the meeting adjourned at 1:30 PM.

Respectfully submitted,

APPROVED:

**RESOLUTION AUTHORIZING AMENDMENT IN
CONNECTION WITH THE HEALTH, EDUCATIONAL AND
HOUSING FACILITY BOARD OF THE
CITY OF CHATTANOOGA, TENNESSEE
COLLATERALIZED MULTIFAMILY HOUSING BONDS
(ESPERO CHATTANOOGA PROJECT) SERIES 2023
AND AUTHORIZING ISSUANCE OF REFUNDING BONDS**

WHEREAS, the Board of Directors of The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the "Issuer"), has met pursuant to proper notice on September 16, 2024; and

WHEREAS, the Issuer previously issued its \$10,700,000 Collateralized Multifamily Housing Bonds (Espero Chattanooga Project) Series 2023 (the "Original Bonds") pursuant to that certain Trust Indenture, dated as of December 1, 2023, by and between U.S. Bank Trust Company, National Association, a national banking association (the "Trustee") and the Issuer (the "Original Indenture"); and

WHEREAS, the proceeds of the Original Bonds were loaned to Espero Chattanooga, LP, a Tennessee limited partnership (the "Borrower") pursuant to that certain Loan Agreement dated as of December 1, 2023, executed by and between the Issuer and the Borrower (the "Original Loan Agreement"), to be used by Borrower to finance the acquisition, construction and equipping of an approximately 60-unit housing facility for low and moderate-income citizens to be known as Espero Chattanooga located in Chattanooga, Tennessee (the "Project"); and

WHEREAS, in connection with the remarketing of the Original Bonds, the Borrower has requested certain amendments to the Original Indenture and the Original Loan Agreement in accordance with a First Amendment to Trust Indenture and Loan Agreement among the Issuer, the Borrower and the Trustee (the "First Amendment"); and

WHEREAS, upon the completion of the Project and the satisfaction of certain other conditions, the Borrower has requested the Issuer to issue its Multifamily Housing Revenue Refunding Bonds (Espero Chattanooga Project) (the "Refunding Bonds") in order to refund the Original Bonds all on the terms and conditions contained in a Bond Financing Agreement (the "Bond Financing Agreement") to be entered into by and among the Issuer, Cedar Rapids Bank and Trust Company (the "Bank") and the Borrower; and

(HEB-2024-15)

WHEREAS, there have been submitted to the Issuer at the meeting on September 16, 2024, the forms of the following instruments which the Issuer proposes to execute to carry out the transactions described above, copies of which instruments shall be filed with the records of the Issuer:

1. The form of the First Amendment among the Issuer, the Borrower and the Trustee
2. The form of the Bond Financing Agreement among the Issuer, the Bank and the Borrower.
3. The form of the Refunding Bonds.
4. The form of a Promissory Note from the Borrower to the order of the Issuer and to be assigned by the Issuer to the Bank (the “Note”).

WHEREAS, it appears that each of the instruments above referred to which is now before this meeting is in appropriate form and is an appropriate instrument to be accepted or executed and delivered by this Issuer for the purposes intended.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE:

1. It is hereby found and determined that the financing and refinancing of the Project will assist the Borrower in connection with its mission of providing safe, affordable housing to the citizens of the State of Tennessee, thereby improving their health and wellbeing and promoting the purposes of the Act.

2. The Chair or Vice Chair of the Issuer is hereby authorized and directed to execute and either is authorized to deliver the First Amendment to the other parties thereto.

3. The Chair or Vice Chair of the Issuer is hereby authorized and directed to execute, and the Secretary or Assistant Secretary of the Issuer is authorized to attest, and either is authorized and directed to deliver the Bond Financing Agreement to the other parties thereto.

4. The Chair or Vice Chair of the Issuer is hereby authorized and directed to execute by facsimile or manual signature, attested by the facsimile or manual signature of its Secretary or Assistant

Secretary, and either is authorized and directed to deliver the Refunding Bonds to the Bank upon payment of the purchase price therefor.

5. The First Amendment, Bond Financing Agreement, Refunding Bonds and Note shall be in substantially the forms submitted, which are hereby approved, with such completions, omissions, insertions and changes as may be approved by the officers executing them, their execution to constitute conclusive evidence of their approval of any such omissions, insertions and changes; provided, however, that the Refunding Bonds shall bear interest at a rate or rates not to exceed the maximum rate permitted by law and the Refunding Bonds shall mature on or before forty (40) years after the issuance thereof.

6. The officers of the Issuer are hereby authorized and directed to execute, deliver and file all certificates and instruments, including Internal Revenue Service Form 8038, an assignment of the Note to the Bank to secure the Refunding Bonds, financing statements to evidence security interests created under the documents referenced herein, a Tax Exemption Certificate and Agreement, a land use restriction agreement (and amendments thereto in connection with the Refunding Bonds) and an informational statement to be filed with the State of Tennessee, and to take all such further action as they may consider necessary or desirable in connection with the First Amendment and the issuance and sale of the Refunding Bonds and the financing and refinancing of the Project.

7. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

8. All other acts of the officers of the Issuer which are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Original Bonds and the Refunding Bonds and the financing and refinancing of the Project are hereby approved and confirmed.

I hereby certify that attached hereto is a resolution of The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, duly and lawfully adopted by its Board of Directors on September 16, 2024, at a meeting at which a quorum was acting throughout and I furthermore certify that such resolution has not been amended or modified in any respect.

THE HEALTH, EDUCATIONAL AND HOUSING
FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE

By: _____
Name: _____
Title: _____

ATTEST:

_____, Secretary

45566285.1

(HEB-2024-15)

BOND FINANCING AGREEMENT

dated as of _____, 20__

by and among

**THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE**

as Issuer

and

ESPERO CHATTANOOGA LP

as Borrower

and

CEDAR RAPIDS BANK AND TRUST COMPANY,

as Bondholder

Relating to

\$ _____

**The Health, Educational and Housing Facility Board
of the City of Chattanooga, Tennessee
Multifamily Housing Revenue Refunding Bonds
(Espero Chattanooga Project),
Series 20__**

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BOND FINANCING AGREEMENT

This Bond Financing Agreement (as amended, modified or supplemented from time to time, this “**Agreement**”) is dated as of _____, 20__, and made among **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE**, a public nonprofit corporation and instrumentality of the City of Chattanooga, Tennessee (together with its successors and assigns, the “**Issuer**”), **ESPERO CHATTANOOGA LP**, a Tennessee limited partnership (together with its permitted successors and assigns, the “**Borrower**”) and **CEDAR RAPIDS BANK AND TRUST COMPANY** (together with any subsequent transferee and registered owner of the Bonds, the “**Bondholder**” or “**Holder**”). Capitalized terms used herein will have the meanings given them in Section 1.1 hereof.

WITNESSETH:

WHEREAS, the Issuer has been duly created and organized pursuant to and in accordance with the provisions of Part 3, Chapter 101, Title 48 of the Tennessee Code Annotated, as amended (the “**Act**”), and pursuant to the Act, the Issuer is authorized to issue revenue bonds to assist in the financing of multifamily residential housing facilities which promote transit oriented development and communities that are owned and operated by Issuer; and

WHEREAS, the Issuer previously issued its \$10,700,000 Collateralized Multifamily Housing Bonds (Espero Chattanooga Project) Series 2023, of which \$[_____] are currently outstanding (the “**Outstanding Bonds**”) pursuant to that certain Trust Indenture, dated as of December 1, 2023, by and between U.S. Bank Trust Company, National Association, a national banking association (the “**Trustee**”) and the Issuer (as amended, the “**Original Indenture**”); and

WHEREAS, the proceeds of the Outstanding Bonds were loaned to Borrower (the “**Bond Loan**”) pursuant to that certain Loan Agreement dated as of December 1, 2023, executed by and between Issuer and Borrower (as amended, the “**Bond Loan Agreement**”), to be used by Borrower to finance a portion of the acquisition, construction and equipping of the Improvements; and

WHEREAS, Borrower has requested that permanent financing be provided for the Project upon its completion; and

WHEREAS, Issuer has agreed to issue and sell the Bonds (as defined below) to the Bondholder, the proceeds of which will be used to (i) together with other funds from Borrower, refund and pay off the Outstanding Bonds in full, and (ii) pay the issuance costs associated with the Bonds, and upon such issuance and refunding, the Original Indenture and the Bond Loan Agreement will be discharged and released; and

WHEREAS, the Bonds shall be issued and secured under the provisions of a resolution, adopted on [September 16, 2024] (the “**Bond Resolution**”), providing for the issuance of the Bonds pursuant to the Act and other applicable provisions of law; and

WHEREAS, the parties desire to provide for the terms of purchase of the Bonds, the use of the proceeds thereof, the refunding of the Outstanding Bonds, and the duties and responsibilities of each party with respect thereto.

NOW THEREFORE, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Use of Defined Terms.

In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein. Capitalized terms used in this Agreement and not defined herein shall have the meanings assigned to them in the Continuing Covenants Agreement.

Section 1.2. Definitions.

Unless the context otherwise requires, the terms defined in this Section will, for all purposes of this Agreement, have the meanings herein specified as follows:

“**Accredited Investor**” means an accredited investor as defined in Rule 501 of Regulation D promulgated by the Securities and Exchange Commission under the authority of the Securities Act.

“**Accrual Period**” means the period from the first calendar day of each month to, and including, the last calendar day of each month, provided that the first Accrual Period shall begin on the Closing Date, and the last Accrual Period shall end on the date the Bonds are paid in full.

“**Act**” has the meaning set forth in the recitals above.

“**Additional Payments**” means the amounts required to be paid by the Borrower pursuant to the provisions of Section 5.2 hereof.

“**Agreement**” means this Bond Financing Agreement as amended or supplemented from time to time.

“**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 Issuer and the Bondholder containing the specimen signature of such Person and signed on behalf of the Borrower, which certificate may designate one or more alternates.

“**Authorized Denominations**” means \$100,000 and any amount in excess thereof.

“**Available Moneys**” means, as of any date of determination, any of:

(a) the proceeds of the Bonds; and

(b) any other amounts, including the proceeds of refunding bonds, for which the Bondholder has received an opinion of counsel satisfactory to the Bondholder to the effect that the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code (or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court) or be avoidable as preferential payments under Section 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code.

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“**Bond Counsel**” means, on the Closing Date Bass Berry & Sims PLC and, thereafter (a) Bass Berry & Sims PLC, or (b) any independent counsel of nationally recognized standing in matters pertaining to the validity of, and exclusion from gross income for federal income tax purposes of interest on, obligations issued by states and political subdivisions, familiar with the transactions contemplated under this Agreement appointed by Issuer with notice to Borrower and Bondholder.

“**Bond Documents**” means this Agreement, the Bond Resolution, the Tax Agreement, the Note, the Fee and Leasehold Deed of Trust, the Land Use Restriction Agreement, the Continuing Covenants Agreement, and any other documents relating to the Bonds.

“**Bond Resolution**” means the resolution adopted by the Issuer authorizing the issuance and sale of the Bonds.

“**Bond Payment Date**” means each Interest Payment Date and any other date Bond Service Charges are due, whether at maturity, upon optional or mandatory redemption, acceleration or otherwise.

“**Bond Registrar**” means the Bondholder Representative or any designee thereof.

“**Bond Service Charges**” for any time period means the principal, including any amortization or redemption requirements, interest, and redemption premium, if any, required to be paid by the Issuer on the Bonds for such time period.

“**Bondholder**” or “**Holder**” means the Person in whose name all or any portion of the Bond is registered and initially means Cedar Rapids Bank and Trust Company.

“**Bondholder Representative**” means the Holder or any Person designated by the Bondholder to act on behalf of the Bondholder as provided in Section 8.11, or an assignee of such Person as provided in Section 8.11. The initial Bondholder Representative shall be the initial Bondholder. If a Servicer is appointed as set forth in Section 8.12, the Bondholder or Bondholder Representative may appoint the Servicer as the Bondholder Representative in connection with such appointment.

“**Bonds**” means the Issuer’s \$[___] Multifamily Housing Revenue Refunding Bonds (Espero Chattanooga Project) Series 20__, issued pursuant to the Bond Resolution and substantially in the form attached hereto as *Exhibit A-1*.

“**Borrower**” means Espero Chattanooga LP, a Tennessee limited partnership.

“**Borrower Documents**” means the Bond Documents to which the Borrower is a party, the Loan Documents and the Collateral Documents.

“**Business Day**” means a day on which banks in Cedar Rapids, Iowa or Chattanooga, Tennessee, are not authorized or required to remain closed and on which the Federal Reserve Bank and the New York Stock Exchange are not closed.

“**Cap Documents**” means [that certain ISDA Master Agreement (2002), Rate Cap Agreement or similar agreement providing for an interest rate cap and acceptable to the Bondholder Representative by and between the Borrower and a cap provider acceptable to Bondholder including all schedules, credit

support annexes, confirmation letters, and pledge and assignment documents executed in connection therewith, as well as any amendments, modifications or replacements thereof.

“**Class B Limited Partner**” means Espero SLP, LLC, a Tennessee limited liability company, or its successor or assign, in its capacity as the Managing Member of the Borrower.

“**Closing Date**” means [__].

“**Code**” means the Internal Revenue Code of 1986, as amended and all applicable rulings and regulations (including temporary and proposed regulations) thereunder.

“**Collateral Documents**” means this Agreement, the Continuing Covenant Agreement, the Fee and Leasehold Deed of Trust, the Cap Documents, the Subordination Agreements, if any, the Replacement Reserve and Security Agreement, the Operating Reserve and Security Agreement, the Assignment of Property Management Agreement and any other mortgage, deed of trust, security agreement or assignment now, heretofore or hereafter executed to secure the obligations of Borrower or any Guarantor to Lender under any Bond Document or Loan Document.

“**Completion Certificate**” means the certificate of completion in accordance with Section 4.3.

“**Completion Date**” means the date of completion of the Project evidenced in accordance with the requirements of Section 4.3 hereof.

“**Continuing Covenants Agreement**” means the Continuing Covenants Agreement among the Bondholder and the Borrower, as the same may be amended, modified or supplemented from time to time.

“**Control**” means to possess, directly or indirectly, the power to manage an entity, including the authority to legally bind the entity.

“**Controlling Interest**” means an interest held by a Person that gives such person the legal right to Control an entity, including the interest held by any of the following:

- (i) Any general partner in a partnership.
- (ii) Any manager (whether a member manager, nonmember manager, or a manager on a board of managers) in a limited liability company.
- (iii) Any director on a board of directors for a corporation or other entity that is not a public company.
- (iv) Any trustee of a trust.
- (v) The settlor of a revocable trust.
- (vi) Any Person with a position and/or decision rights that are similar to those listed in (i) through (v).

Neither of the following alone will be deemed sufficient to constitute a Controlling Interest: (i) the ownership of the majority of the equitable or legal interests in such entity or (ii) the right to vote on “major decisions” for such entity.

“**Corporate Guarantor**” means, collectively, jointly and severally, Vecino Bond Group, LLC, a Missouri limited liability company, Vecino Communities, LLC, a Missouri limited liability company, and Espero SLP, LLC, a Tennessee limited liability company.

“**Costs of Issuance**” means the Costs of Issuance as defined in the Tax Agreement.

“**Date of Taxability**” means any of the following dates with respect to the corresponding event under the definition of Event of Taxability: (A) the date such statute or regulation becomes effective, (B) the date such final determination is rendered, (C) the first Business Day following the last day of such period, (D) the date of such Opinion of Counsel.

“**Default Rate**” shall have the meaning set forth in the Note or such lesser rate as is lawfully chargeable under State law.

“**Designated Office**” means, when referring to the Bond Registrar, the Notice Address office of the Bond Registrar, or such other office as may be specified from time to time in a notice given by the Bond Registrar to the Issuer and the Borrower.

“**Eligible Investments**” means any investments approved in writing by the Bondholder or the Bondholder Representative.

“**Event of Default**” will have the meaning specified in Section 7.1 hereof.

“**Event of Taxability**” means (A) the enactment of a statute or promulgation of a regulation eliminating, in whole or in part the applicable exclusion, as such exists on the Closing Date, from gross income for federal income tax purposes of interest payable on the Bonds, or (B) a final determination, by decision or ruling, by a duly constituted administrative authority to the effect that the exclusion from gross income for federal income tax purposes of interest payable on the Bonds is not available, is no longer available or is contrary to law, or (C) the expiration of the right to further administrative review of any determination, decision or ruling to the effect that the exclusion from gross income for federal income tax purposes of interest payable on the Bonds is not available, is no longer available or is contrary to law, or (D) receipt by and at the request of the Bondholder Representative of a written opinion of Bond Counsel (selected by the Holders with the written approval of the Issuer, such approval not to be unreasonably withheld, conditioned or delayed) that there is no longer a basis for the Holders or any former Holder (other than a Holder or former Holder who is or was a Substantial User of the Project or a Related Person thereto, each term as defined in the Tax Agreement) to claim that any interest paid and payable on the Bonds is excludable from gross income for federal income tax purposes. For the purposes of clause (B) above, a “final determination, by decision or ruling, by a duly constituted administrative authority” means (1) the issuance of a ruling (including, but not limited to, a revenue ruling or a letter ruling) by the IRS or any successor thereto, or (2) the issuance of a preliminary notice of proposed deficiency (“**30-Day Letter**”), a statutory notice of deficiency (“**90-Day Letter**”), or other written order or directive of similar force and effect by the IRS, or any other United States Governmental Authority having jurisdiction. Notwithstanding the foregoing, nothing in this definition of “Event of Taxability” shall be construed (w) to require any Holder to request a written opinion of Bond Counsel at any time as to the continued exclusion from gross income for federal income tax purposes of the interest on the Bonds, or (x) to mean or include consideration of the interest payable on the Bonds for purposes of calculating the interest expense which may be deducted by a bank or other financial institution, or (y) to mean that the Bondholder has any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation, or (z) to mean or include the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on the Bondholder or any other holder of the Bonds, in the calculation of which is included the interest paid under the Bonds. Notwithstanding the foregoing, no

decision by any court or decision, ruling, or proceeding by any administrative authority shall be considered final unless (a) Borrower has been given the opportunity to contest such action at its own expense, and (b) until the expiration of all periods for judicial review and appeals.

“**Fee and Leasehold Deed of Trust**” means the deed of trust of even date herewith encumbering the Project and securing repayment of the Note from Borrower to Issuer, as further assigned to the Bondholder as of the date hereof.

“**Fiscal Year**” means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

“**GAAP**” means Generally Accepted Accounting Principles, consistently applied, as set by the Financial Accounting Standards Board.

“**General Partner**” means Espero GP 2, LLC, a Tennessee limited liability company, and any other person or entity that owns a general partner interest in Borrower.

“**Guaranties**” means the Guaranties, as defined and described in the Continuing Covenants Agreement.

“**Guarantors**” means, collectively, jointly and severally, Corporate Guarantor and Personal Guarantor.

“**Interest Payment Date**” means the first Business Day of each month.

“**Interest Period**” means the period from the first day of each month, to and including the last day of each month.

“**Interest Rate**” means the interest rate payable with respect to the Bonds and the Note as set forth on *Exhibit A-2* attached hereto.

“**Investor Letter**” means the letter to be delivered by the Bondholder and any subsequent transferee of the Bonds, in substantially the form attached hereto as *Exhibit B*.

“**Investor Limited Partner**” means RBC Community Investments, LLC, an Illinois limited liability company and its permitted successors and assigns in its capacity as investor member owning a 99.99% interest in the Borrower.

“**Issuer**” means The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, a Tennessee public nonprofit corporation.

“**Issuer Documents**” means the Bond Documents to which the Issuer is a party.

“**Issuer Fees and Expenses**” means (i) the expenses and disbursements payable to the Issuer under this Agreement for routine and extraordinary fees, costs and expenses incurred by Bond Counsel and counsel to the Issuer; and (ii) an amount payable by the Borrower on the Closing Date calculated pursuant to the Issuer’s Sustaining Transportation and Reinvesting Together policy.

“**Land Use Restriction Agreement**” means that certain Amended and Restated Land Use Restriction Agreement dated as of [_____, 20___], between the Issuer and the Borrower, as supplemented and amended pursuant to the provisions thereof.

“**Lender**” means the Bondholder.

“**Lien**” shall have the meaning set forth in the Continuing Covenants Agreement.

“**Loan**” means the loan made by the Issuer to the Borrower funded with the proceeds of the Bonds pursuant to this Agreement for the purpose of providing a portion of the financing for the Project.

“**Loan Documents**” means all of the following documents:

- (a) This Agreement;
- (b) The Continuing Covenants Agreement;
- (c) The Fee and Leasehold Deed of Trust;
- (d) The Assignment of Property Management Agreement;
- (e) UCC financing statements;
- (f) The Guaranties;
- (g) The Indemnity;
- (h) The Replacement Reserve and Security Agreement;
- (i) The Operating Replacement Reserve and Security Agreement;
- (j) The Subordination Agreements; and
- (k) such other papers and documents as may be required by this Agreement or the Continuing Covenants Agreement.

“**Loan Payments**” means any and all payments of principal, interest, premiums, if any, and all other late fees, default interest and other charges payable with respect to the Note.

“**Maturity Date**” means [MATURITY DATE] ([_____, 2044]).

“**Note**” means the promissory note of the Borrower, dated as of even date with the Bonds, in the form attached hereto as *Exhibit A-2*, as the same may be amended, restated, supplemented or otherwise modified from time to time to the extent permitted in this Agreement or any promissory note executed in substitution therefor in accordance with the terms of the Bond Documents, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time to the extent permitted in this Agreement, evidencing the Borrower’s payment obligations.

“**Notice Address**” means for each of the Persons listed below the address set forth below until such time as such Person shall have notified each of the other Persons listed below of a new Notice Address:

If to the Issuer: The Health, Educational and Housing Facility
Board of the City of Chattanooga, Tennessee
c/o Office of the Chattanooga City Attorney
100 E. 11th Street, Suite 200
Chattanooga, Tennessee 37402
Attention: Chair

If to the initial Bondholder: Cedar Rapids Bank and Trust Company
500 1st Ave NE, Ste 100
Cedar Rapids, Iowa 52401
Attention: Senior Vice President, Business Development

With a copy to: Winthrop & Weinstine, PA
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
Attention: Robert P. Singleton

If to the Borrower: Espero Chattanooga LP
305 W. Commercial Street
Springfield, Missouri 65803
Attention: Kim Buche
Email: kim@vecinogroup.com

With a copy to: Emily Ziegler
Frost Brown Todd LLP
400 West Market Street, Suite 3200
Louisville, KY 40202

If to the Investor Limited Partner or Special Limited Partner: RBC Community Investments, LLC
600 Superior Avenue, Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel
Fax No.: (216) 875-2612

With a copy to: Applegate & Thorne-Thomsen PC
425 S. Financial Place Suite 1900
Chicago, IL 60605
Attention: Bennett P. Applegate

“**Outstanding**” means the total amount of Bonds at any given time corresponding to the aggregate principal amount of the Bonds issued in a single disbursement on the date hereof made by or on behalf of the Bondholder under this Agreement except:

- (a) any amount of Bonds cancelled on or prior to such date for cancellation;
- (b) any amount of Bonds deemed to be paid in accordance with this Agreement; and
- (c) any amount of Bonds in lieu of which other Bonds have been delivered pursuant hereto.

“Partnership Agreement” means the Amended and Restated Limited Partnership Agreement of Borrower dated as of _____, 2024, by the General Partner, Investor Limited Partner, Special Limited Partner and Class B Limited Partner as the same may be amended from time to time with the approval of the Bondholder or as otherwise permitted under the Borrower Documents.

“Permanent Period” means the period commencing on the Conversion Date (as defined in the Continuing Covenants Agreement) and ending on the Maturity Date.

“Permitted Encumbrances” shall have the meaning set forth in the Continuing Covenants Agreement.

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), societies, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

“Personal Guarantor” means individually and collectively, jointly and severally, J. Matthew Miller, an individual, and Richard Manzardo, an individual.

“Plans and Specifications” means the set of plans and specifications describing the Project and prepared in connection therewith.

“Pledged Revenues” means (a) the Loan Payments, (b) any payments due under the Cap Documents, and (c) all other moneys pledged or otherwise held as security for the Loan or Bonds under the Collateral Documents.

“Pledged Security” means (a) the Note, (b) the Pledged Revenues, (c) the Collateral Documents and all rights appurtenant thereto, and (d) all other funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security for the Note or the Bonds.

“Project” means the multifamily rental housing project to be constructed at 1815 E. Main Street, Chattanooga, Tennessee, to be known as Espero Apartments, which, upon completion, will contain approximately sixty (60) rental housing units and which may include such ancillary uses as parking, community space, and other functionally related and subordinate uses.

“Project Costs” means

(a) Costs incurred directly or indirectly for or in connection with the acquisition, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction of the Project with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during and after the construction of the Project.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, cash flow verification, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, improvement and equipping of the Project.

(g) Payment of interest on the Bonds during the construction of the Project.

(h) Payments to satisfy any rebate obligations as calculated by the Rebate Analyst.

Any disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds shall be accompanied by an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds..

“**Purchase Price of the Bonds**” means the aggregate principal amount of the Bonds to be issued and sold under this Agreement, which amount shall be equal to \$[**BOND AMOUNT**].

“**Qualified Institutional Buyer**” means a qualified institutional buyer as defined in Rule 144A promulgated by the Securities and Exchange Commission under the authority of the Securities Act.

“**Rate Cap**” means a Rate Cap Agreement or similar agreement providing for an interest rate cap and acceptable to the Bondholder Representative including all schedules, credit support annexes, confirmation letters, and pledge and assignment documents executed in connection therewith, as well as any amendments, modifications or replacements thereof

“**Rebate Analyst**” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Borrower (with the written consent of the Bondholder Representative, which consent shall not be unreasonably withheld, conditioned or delayed) to make the computations and give the directions required pursuant to the Tax Agreement.

“**Rebate Analyst Fee**” means the amount due to the Rebate Analyst from the Borrower in connection with an arbitrage rebate calculation as required by the Tax Agreement.

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

“**Servicer**” means any entity appointed by the Bondholder Representative to service the Loans and the Collateral Documents, including any successor thereto as set forth in Section 8.12.

“**Special Limited Partner**” means RBC Community Investments Manager, II, Inc., a Delaware corporation.

“**Stabilization Conditions**” has the meaning assigned to such term in the Continuing Covenants Agreement.

“**State**” means the State of Tennessee.

“**Tax Agreement**” means the Tax Exemption Certificate and Agreement dated as of [_____, 20__], between the Borrower and the Issuer.

“**Unassigned Issuer’s Rights**” means all of the rights of the Issuer to receive Additional Payments under Section 5.2 hereof, to be held harmless and indemnified under Section 6.3 hereof, to determine if satisfactory arrangements for Additional Payments under Section 5.2 hereof have been made, to be reimbursed for attorney’s fees and expenses under Section 7.4 hereof, to receive duplicate copies pursuant to Section 8.2 hereof, to give or withhold consent to amendments, changes, modifications, alterations and termination of this Agreement under Section 8.5 hereof and to exercise certain remedies under Section 7.3 hereof.

Section 1.3. Interpretation.

Any reference herein to the Issuer, or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Tennessee Code Annotated, as amended, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Bondholder or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof”, “hereby”, “herein”, “hereto”, “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.4. Captions and Headings.

The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

[End of Article I]

ARTICLE II.
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1. Representations, Warranties and Covenants of the Issuer.

The Issuer represents and warrants to, and agrees with the Bondholder that:

(a) It is validly existing as a public nonprofit corporation and instrumentality of the City of Chattanooga, Tennessee pursuant to the Act, and has full legal right, power and authority (i) to enter into this Agreement; (ii) to adopt the Bond Resolution and cause the delivery of the Bonds to the Bondholder pursuant to the Bond Resolution and this Agreement as provided herein; (iii) to loan the proceeds of the Bonds to the Borrower for the purpose set forth in this Agreement; and (iv) to carry out and consummate the transactions contemplated by this Agreement and the other Issuer Documents.

(b) The Issuer, with respect to the Bonds, as advised by Bond Counsel, has complied, and will at the Closing Date be in compliance in all material respects with the Issuer Documents and the relevant laws of the State;

(c) (i) At or prior to the Closing Date, the Issuer will have taken all action required to be taken by it to authorize the issuance and sale of the Bonds and the performance of its obligations hereunder; (ii) the Issuer has full legal right, power and authority to enter into this Agreement and the Issuer Documents, will have full legal right, power and authority to deliver the Bonds to the Bondholder and to perform its obligations hereunder as provided in this Agreement, the Bonds and the Issuer Documents, and all other documents to be executed by the Issuer in connection with the issuance of the Bonds, and to carry out and effectuate the transactions contemplated by this Agreement and the Issuer Documents; (iii) on or prior to the Closing Date, the execution and delivery of, and the performance by the Issuer of the obligations contained in the Bonds, this Agreement and the Issuer Documents have been duly authorized, and when executed this Agreement, and the Issuer Documents will constitute valid and legally binding limited obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights generally and the application of equitable principles where equitable remedies are sought and limitations on the enforcement of judgments against public bodies; (iv) the Issuer has duly authorized the consummation by it of all transactions contemplated by this Agreement and the Issuer Documents; and (v) the Issuer Documents have been duly and validly adopted by the Issuer and are at the time of acceptance hereof in full force and effect;

(d) The Issuer, with respect to the Bonds, has not received notice that it is in material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree or any loan agreement, note, resolution, certificate, indenture, agreement or other instrument to which the Issuer is a party or is otherwise subject; and the adoption of the Bond Resolution and the execution and delivery of this Agreement, the Bonds, the other Issuer Documents and all other documents to be executed by the Issuer in connection with the issuance of the Bonds, and compliance with the provisions of each thereof do not, to the Issuer's knowledge, conflict with or constitute a material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree, or any loan agreement, note, resolution, certificate, indenture, agreement or other instrument to which the Issuer is a party or is otherwise subject;

(e) All approvals, consents, and orders of any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to the performance by the Issuer of its obligations hereunder and under the Bond Resolution, the Issuer Documents, and the Bonds and all other documents to be executed by the Issuer in connection with the issuance of the Bonds have been obtained;

(f) The Issuer will not take or omit to take any action, which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds under the Code.

(g) The Bonds, when delivered and sold to the Bondholder as provided herein, will have been duly authorized and executed and will constitute validly issued and binding limited obligations of the Issuer in conformity with, and entitled to the benefit and security of, the Act and the Issuer Documents;

(h) The Bonds, the Bond Resolution and the Issuer Documents shall conform in all material respects to the descriptions contained in this Agreement and the Bonds when validly issued, executed and delivered in accordance with the Bond Resolution and the Issuer Documents and sold to the Bondholder as provided therein, will be validly issued and outstanding limited obligations of the Issuer entitled to the benefits of the Bond Resolution and the Issuer Documents;

(i) The Issuer has received no notice of any litigation pending or threatened in any court in any way affecting the existence of the Issuer or the title of any officer of the Issuer who is required to execute any of the Issuer Documents to the office held by such member or employee, or seeking to restrain or enjoin the issuance, sale or delivery of the Bonds or the collection of revenues or assets of the Issuer pledged or to be pledged to pay the principal of and interest on the Bonds, or the pledge thereof, or in any way contesting or affecting the validity or enforceability of the Bonds, the Bond Resolution or the Issuer Documents, or contesting the powers of the Issuer, or its authority with respect to the Bonds, the Bond Resolution and the Issuer Documents;

(j) Any certificate relating to the issuance and delivery of the Bonds signed by an authorized member or officer of the Issuer and delivered to the Bondholder at or prior to the Closing Date shall be deemed a representation and warranty by the Issuer in connection with this Agreement to the Bondholder as to the statements made therein; and

(k) The Issuer agrees that all representations, warranties and covenants made by it herein, and in certificates, agreements or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Bondholder, and that all representations, warranties and covenants made by the Issuer herein and therein and all the Bondholder's rights hereunder and thereunder shall survive the delivery of the Bonds.

Section 2.2. Representations, Warranties and Covenants of the Borrower.

The Borrower represents, warrants, covenants and agrees that, as of the date hereof, and at all times at which any portion of the Bonds are Outstanding:

(a) It is a limited partnership duly formed and validly existing under the laws of the State and authorized to do business in the State.

(b) It has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The

execution, delivery and performance of the Borrower Documents do not, and will not, violate any provision of law applicable to the Borrower or its governing documents and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower.

(c) [Reserved.]

(d) [Intentionally deleted].

(e) It will use or operate the Project in accordance with the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer and the Bondholder which will be consistent with the Act and the Code.

(f) The Project will be completed in accordance with the Plans and Specifications and will be constructed, operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable governmental codes, ordinances, statutes, laws, rules, regulations and requirements of the State and so as to be consistent with the Act.

(g) Except for obligations undertaken in connection with the financing, construction, development and operation of the Project, the Borrower does not have any liabilities, contingent or otherwise, whether due or to become due, including, without limitation, liabilities as guarantor under any guaranty, liabilities for taxes, liabilities for long-term leases, liabilities for unusual forward or long-term commitments or judgments.

(h) All property to be purchased with the proceeds of the Bonds for the Project will be owned, for federal tax purposes, by the Borrower.

(i) No litigation at law or in equity nor any proceeding before any governmental agency or other tribunal involving the Borrower is pending or, to the knowledge of the Borrower, threatened, in which any liability of the Borrower is not adequately covered by insurance or in which any judgment or order would have a material and adverse effect upon the business or assets of the Borrower or would materially and adversely affect the operation of the Project, the validity of the Borrower Documents or the performance of the Borrower's obligations thereunder or the transactions contemplated hereby.

(j) No costs of issuance in excess of 2.00% of the Bonds will be paid from proceeds of the Bonds.

(k) The statements prepared and submitted by the Borrower and used by the Issuer in preparing the Tax Agreement and information statement pursuant to Section 149(e) of the Code are true and complete as of the date of issuance of the Bonds. In the event that circumstances render such statements inaccurate, the Borrower shall notify the Issuer, the Bondholder and Bond Counsel and the Borrower shall prepare and submit or cause to be submitted, true and complete amendments of, or supplements to, those statements if in the opinion of Bond Counsel, such amendments or supplements are deemed necessary or advisable.

(l) The Project is taxed or will be taxed separately without regard to any other property of the Borrower or any other Person and for all purposes the Project may be mortgaged, conveyed and otherwise dealt with as an independent parcel.

(m) The Borrower has and will continue to have a leasehold interest in the land on which the Project is located.

(n) No condition, circumstance, event, agreement, document, instrument or restriction is pending or, to the knowledge of the Borrower, threatened and no litigation or proceeding exists (i) which could adversely affect the validity or priority of the liens and security interests granted to the Bondholder under the Loan Documents, (ii) which could adversely affect the ability of the Borrower to lease the land underlying the Project and to complete construction of and operate the Project, (iii) which could adversely affect the ability of Borrower to perform its obligations under the Bond Documents or the Borrower Documents, or (iv) which, to the knowledge of Borrower, would constitute a default in the obligations of the Borrower under any of the Bond Documents or Borrower Documents or which would constitute such a default with the giving of notice or lapse of time or both.

(o) All utility and municipal services required for the construction, occupancy and operation of the Project for its intended purpose, including, but not limited to, water supply, storm and sanitary sewage disposal systems, gas, electric, internet, cable television and telephone facilities are (or when constructed will be) available for use and tap-in at the boundaries of the Project or pursuant to recorded easements, and written permission has been obtained from the applicable utility companies or municipalities to connect the Project into each of said services and to thereafter provide the Project with such services to the extent necessary for operation of the Project for its intended purpose.

(p) All permits and licenses required by applicable law to construct, occupy and operate the Project for its intended purpose have been issued and are in full force.

(q) The storm and sanitary sewage disposal system, water system and all mechanical systems of the Project comply with all applicable environmental, pollution control and ecological laws, ordinances, rules and regulations. The applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Project have issued their permits for the construction, tap-in and operation of those systems.

(r) No condemnation of any portion of the Project and no denial of access to the Project from any point of access to the Project, has commenced, or to the best of Borrower's knowledge, is contemplated by any governmental authority.

(s) None of the proceeds of the Bonds will be used in a manner inconsistent with the Borrower Documents or the Partnership Agreement.

(t) The Borrower has taken all action necessary to comply with the requirements of its award of low income housing tax credits (the "LIHTC") from the Tennessee Housing Development Agency ("THDA") and shall comply with all of the requirements to maintain such award including complying with any restrictive covenants regarding the use of the Project required by the Issuer in connection with the LIHTC.

(u) The Loan is not being made for the purpose of purchasing or carrying "margin stock" within the meaning of Regulation G, T, U, or X issued by the Board of Governors of the

Federal Reserve System, and the Borrower agrees to execute all instruments necessary to comply with all the requirements of Regulation U of the Federal Reserve System.

(v) The Borrower is not a party in interest to any plan defined or regulated under ERISA, and the assets of the Borrower are not “plan assets” of any employee benefit plan covered by ERISA or Section 4975 of the Code.

(w) The Borrower is not a “foreign person” within the meaning of Section 1445 or 7701 of the Code.

(x) The Borrower is not a Person with whom the Bondholder is restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury of the United States of America (including, those Persons named on OFAC’s Specially Designated and Blocked Persons list) or under any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such Persons. In addition, Borrower hereby agrees to provide the Bondholder with any additional information that the Bondholder deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

(y) The Borrower will comply with, and will cause the Class B Limited Partner and General Partner to comply with, all of their respective obligations under the Partnership Agreement. All of the representations and warranties made by the Partnership, General Partner, or the Class B Limited Partner in the Partnership Agreement are true, correct and complete in all material respects.

(z) The Borrower will apply the proceeds of the Bonds to pay Project Costs such that at least 50% of the aggregate basis of the Project and the land on which the Project is located is financed with the proceeds of the Bonds.

(aa) The Borrower will not transfer a Controlling Interest in the Borrower during the term of this Agreement except as otherwise permitted under the Borrower Documents.

(bb) The Borrower shall provide to the Bondholder and the Servicer with evidence from the Issuer to demonstrate the Project is exempt from ad valorem property tax exemption under the Act and applicable State law.

Section 2.3. Representations, Warranties and Covenants of Bondholder.

The initial Bondholder represents, warrants and covenants that:

(a) It is purchasing the Bonds for investment for its own account or for its loan portfolio and is not purchasing the Bonds for resale or other disposition, and it has no present intention of reselling or otherwise disposing of all or any part of the Bonds or dividing its interest therein, but it reserves the right to sell or otherwise dispose of the Bonds as it chooses, subject to the conditions set forth in Section 4.7 and the Investor Letter attached hereto as Exhibit B. It understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

(b) It is a Qualified Institutional Buyer or an Accredited Investor.

(c) It has either been supplied with or been given access to information, including financial statements and all other financial information that it requested, and it has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the Project and the Bonds.

(d) In reaching the conclusion that it desires to acquire the Bonds, it agrees that it has carefully evaluated the Borrower and the risks associated with this investment or loan and acknowledges that it is able to bear the economic risk of this investment or loan. By reason of its knowledge and experience in financial and business matters, it is capable of evaluating the merits and risks of the investment in the Bonds. The representations in this Section 2.3 shall not relieve the Borrower from any obligation to disclose any information required by the documents entered into in connection with the issuance of the Bonds or required by any applicable law.

(e) It acknowledges that no official statement or other disclosure document has been prepared in connection with the sale and delivery of the Bonds and understands that the Bonds are not rated by any rating agency.

(f) It understands that the Bonds are not registered under the Securities Act of 1933, as amended, and that such registration is not legally required as of the date hereof, and further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service, (d) will be delivered in a form which may not be readily marketable and (e) will not be registered with the Depository Trust Company or have a CUSIP.

(g) It shall advance or cause to be advanced Bond proceeds to or for the account of the Issuer pursuant to the provisions of the Continuing Covenants Agreement.

[End of Article II]

**ARTICLE III.
COMPLETION OF THE PROJECT**

Section 3.1. Reserved.

Section 3.2. Reserved.

Section 3.3. Borrower Required to Pay Costs of Project.

If moneys advanced by or on behalf of the Bondholder pursuant to this Agreement are not sufficient to pay all Project Costs for the Project, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs for the Project from its own funds. The Borrower shall pay all costs of issuing the Bonds.

Section 3.4. Reserved.

[End of Article III]

**ARTICLE IV.
ISSUANCE AND TERMS OF BONDS**

Section 4.1. Issuance and Terms of the Bonds; Registration and Transfer; Application of Proceeds.

(a) To provide funds to make the Loan for purpose of paying a portion of the Project Costs for the Project, the Issuer will issue, sell and deliver the Bonds in Authorized Denominations to the Bondholder and the Bondholder agrees to purchase the Bonds at the purchase price of 100% of the principal amount, pursuant to the terms and conditions set forth herein. The Bonds shall be issued in fully-registered form in the aggregate principal amount not to exceed \$[BOND AMOUNT]. The Bonds shall bear interest at the Interest Rate for each Accrual Period, shall mature on the Maturity Date and shall be subject to redemption prior to maturity, as set forth in Section 4.8 hereof. Interest on the Bonds shall be calculated on an actual/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. The Bonds shall be payable as set forth in Section 4.6 herein. Interest is payable on each Bond Payment Date to and including the Maturity Date. The Borrower hereby approves the terms and conditions of the Bond Resolution and the Bonds, and of the terms and conditions under which the Bonds shall be issued, sold and delivered.

(b) The Bonds shall be signed by the Chair or Vice Chair of the Issuer and attested by the Secretary or Assistant Secretary of the Issuer (provided that such signatures may be facsimile). In case any officer whose signature or a facsimile of whose signature appears on any Bond shall cease to be that officer before the issuance of the Bond, the officer's signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he or she had remained in office at that time. Any Bond may be executed on behalf of the Issuer by an officer who, on the date of execution is a proper officer, although on the date of the Bond that Person was not a proper officer.

(c) Only such Bonds as shall have been duly executed by the Chair of the Issuer (or such other officer in charge of the financial affairs of the issuer) shall be entitled to any right or benefit under this Agreement. No Bond shall be valid or obligatory for any purpose unless and until it is so executed by the Chair of the Issuer or other authorized officer of the Issuer; and such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been delivered under this Agreement.

(d) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer, promptly upon request by the Bondholder and at the sole cost and expense of the Borrower, shall execute and the Chair of the Issuer (or such other officer in charge of the financial affairs of the issuer) shall promptly execute and deliver a new Bond in lieu of such mutilated, lost, stolen or destroyed Bond, of like date and denomination as that mutilated, lost, stolen or destroyed. Any mutilated Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Issuer evidence of such loss, theft or destruction satisfactory to it together with indemnity reasonably satisfactory to it. Every new Bond issued pursuant to this Section shall, with respect to such Bond, constitute an additional contractual obligation of the Issuer, whether or not the mutilated, lost, stolen or destroyed Bond shall be found at any time, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Bonds duly issued hereunder. All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or stolen Bonds and shall preclude any and all rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

(e) The Purchase Price for the Bonds shall be made by or on behalf of the Bondholder to the Issuer pursuant to the provisions of Section 4.5 hereof upon satisfaction of the conditions set forth in (i) Section 4.2(a) hereof and (ii) the Continuing Covenants Agreement.

(f) Reserved.

(g) The Bonds may be transferred, subject to the terms of Section 4.7 hereof, in whole and not in part, only upon the books kept for the registration and transfer of Bonds by the Bond Registrar, together with an assignment duly executed by the Bondholder or its duly authorized attorney in such form as shall be satisfactory to the Bond Registrar. The Bondholder and any subsequent Bondholder shall give written notice to the Borrower promptly upon any transfer of the Bonds, but any failure to give such notice shall not affect the validity of such transfer. Upon such request of the transferor, the Issuer, at the sole cost and expense of the Borrower, shall execute in the name of the transferee, and shall deliver, new fully registered Bonds in the aggregate principal amount equal to the unamortized and unredeemed principal amount of the Bonds so surrendered and bearing interest at the same rate or rates and maturing on the same date.

(h) So long as the Bonds remain Outstanding, the Bond Registrar shall maintain books for the aforesaid registration and transfer of the Bonds.

(i) THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED AND SPECIAL OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE OR CREATE A DEBT OR OBLIGATION, EITHER GENERAL OR SPECIAL, OR LIABILITY OR MORAL OBLIGATION OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE ISSUER (WHICH HAS NO TAXING POWER AND RECEIVES NO FUNDS FROM ANY GOVERNMENTAL BODY) BUT ARE LIMITED AND SPECIAL REVENUE OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE PLEDGED REVENUES. PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE A VALID CLAIM ONLY AS AGAINST THE PLEDGED REVENUES, IS NOT A GENERAL OBLIGATION OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OR THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION OR AGENCY OF THE STATE OR THE ISSUER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS.

NEITHER THE BOARD OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF.

(j) A Bondholder is not required to present or surrender its Bond to receive any distribution or payments thereon.

Section 4.2. Purchase and Sale of Bonds.

(a) Agreement to Purchase. Bondholder's purchase of the bonds is based upon receipt of the following:

- (1) the original executed Bonds, executed counterparts of this Agreement, all of the Borrower Documents, the Guaranties and all of the Issuer Documents;
- (2) a no adverse effect opinion of Bond Counsel in form and substance satisfactory to the Bondholder and its counsel;
- (3) an opinion or opinions of counsel to the Borrower, General Partner, Class B Limited Partner and the Corporate Guarantor in form and substance satisfactory to the Bondholder;
- (4) *Reserved*;
- (5) UCC-1 financing statements or comparable security instruments to evidence or perfect the security interests created or purported to be created hereby and by the Borrower Documents;
- (6) *Reserved*;
- (7) a certificate of one or more officers of Issuer and such other proof as the Bondholder shall require to establish the truth of the representations and warranties set forth in Section 2.1 hereof;
- (8) a certificate of one or more officers of the Borrower and such other proof as the Bondholder shall reasonably require to establish the truth of the representations set forth in Section 2.2 hereof;
- (9) such other or further documents, data or information with respect to the Borrower, the General Partner, Class B Limited Partner and/or the Project as the Bondholder or its counsel may reasonably request;
- (10) a certified copy of a fully executed Partnership Agreement of the Borrower (and the appropriate organizational documents relating to the Borrower, the General Partner, Class B Limited Partner and the Corporate Guarantor), in form and substance reasonably satisfactory to the Bondholder, and, certificates of good standing or existence, as applicable relating to the Borrower, the General Partner, Class B Limited Partner and the Corporate Guarantor;
- (11) a resolution or unanimous written consent of the appropriate governing body of the General Partner and the Class B Limited Partner approving and authorizing the execution and delivery of the Borrower Documents to which the Borrower, General Partner, or the Class B Limited Partner is a party and the encumbrance of the Project, in form and substance satisfactory to the Bondholder;
- (12) a resolution of the appropriate governing body of the Corporate Guarantor approving and authorizing the execution and delivery of the Guaranties to which it is a party in form and substance satisfactory to the Bondholder;
- (13) all documents and other materials required to be delivered pursuant to the Continuing Covenants Agreement; and such other or further documents, data or information with respect to the Borrower, the Guarantors or the Project as the Bondholder or its counsel may reasonably request shall have been received and approved by the Bondholder;

(14) subject to Section 2.2(k) herein, as of the date of the advance, the representations and warranties of the Borrower and/or the Guarantors made in any of the Borrower Documents or Guaranties shall be true and correct in all material respects, there shall not have occurred any Event of Default hereunder or under any of the Borrower Documents or Guaranties and there shall be no event that with the passage of time or the giving of notice or both would constitute an Event of Default hereunder, or under any of the Borrower Documents or Guaranties;

(15) the Borrower shall have paid to the Bondholder a one-time commitment fee in connection with the Loan equal to (\$10,000);

(16) Bondholder shall have received evidence reasonably acceptable to Bondholder that the Bond Loan Agreement and the Trust Indenture are no longer in force or effect and have been replaced and superseded in their entirety by this Agreement.

(b) Reserved.

Section 4.3. Completion Date.

The Borrower shall have notified the Issuer and the Bondholder of the Completion Date of the Project by a certificate signed by the Authorized Borrower Representative stating:

(a) the date on which the Project was substantially completed, as is evidenced by a certificate of occupancy issued by the City of Chattanooga, Tennessee.

(b) that all other facilities and equipment necessary in connection with the Project have been constructed, improved, installed and equipped,

(c) that the construction and equipping of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations, and that all certificates of occupancy and other governmental approvals required to operate the Project for its intended use have been received and are in full force and effect, and

(d) that except as disclosed in writing to the Issuer and the Bondholder, all costs of that construction, improvement and equipment then or theretofore due and payable have been paid.

That certificate may state that it is given without prejudice to any rights against third parties which then exist or subsequently may come into being. The certificate shall include as an attachment, a copy of all certificates of occupancy for the Project. The certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in subsections (a) through (d) of this Section.

Upon receipt of the Completion Certificate the Bondholder may, at its discretion, review the Completion Certificate to determine if all of the conditions for Completion set forth in the Loan Documents have been satisfied and require the Borrower to provide additional documentation.

Section 4.4. Conversion of Loan.

The Borrower and the Bondholder agree that the Loan shall amortize and Borrower shall pay the principal and interest of the Loan as set forth in the sinking fund schedule pursuant to Section 4.8(b) herein.

Section 4.5. Reserved.

Section 4.6. Relationship of Payments on Note to Payments under the Bonds; Assignment of Note.

The Issuer hereby assigns the Pledged Security to the Bondholder, grants to the Bondholder a security interest in all of the Pledged Revenues without recourse or warranty, and hereby directs that payments of principal and interest under the Note by the Borrower shall be made to the office of the Bondholder. So long as the Borrower continues to make timely payments of principal, interest and other amounts due under any of the other Loan Documents to the Bondholder, all parties hereto agree that payments made by the Borrower under the Note shall be credited against corresponding payments due with respect to the Bonds.

The Issuer hereby represents to the Bondholder that the Issuer, as the initial owner of the Note, has pledged and assigned to the payment of the Bonds pursuant to this Agreement, all of its rights, title and interest in and to the Note and the other Pledged Security, free and clear of any prior lien, security interest, or other encumbrance other than the security interest arising hereunder.

The Issuer hereby authorizes the Bondholder to exercise, whether or not an Event of Default has occurred under the Note or this Agreement, either in the Issuer's name or the Bondholder's name, any and all rights or remedies available to the Issuer under the Pledged Security. In addition, the Issuer hereby authorizes the Bondholder, either in the Issuer's name or the Bondholder's name, to enforce compliance by the Borrower of the terms and conditions of this Agreement, the Note and the other Collateral Documents. The Issuer agrees, on request of the Bondholder, to execute and deliver to the Bondholder such other documents or instruments as shall be deemed reasonably necessary or appropriate by the Bondholder at any time to confirm or perfect the security interest and rights hereby granted.

The Issuer will not:

(a) exercise or attempt to exercise any remedies under this Agreement or the Note or any other Bond Document except as provided in Section 7.3 hereof, or terminate, modify, or accept a surrender of, or offer or agree to any termination, modification, or surrender of the same, or, by affirmative act, consent to the creation or existence of any security interest or other lien on the Pledged Security to secure payment of any other indebtedness, except as otherwise permitted by this Agreement; or

(b) receive or collect or permit the receipt or collection of any payments, receipts, rentals, profits, or other moneys due under this Agreement or the Note or the other Bond Documents, or assign, transfer, or hypothecate (other than to the Bondholder hereunder) any of the same then due or to accrue in the future, except as contemplated hereby or thereby.

Whenever any of the parties hereto are referred to, such reference shall be deemed to include the successors and assigns of such party, and all the covenants, promises, and agreements in this Agreement contained by or on behalf of the Issuer or the Bondholder shall bind and inure to the benefit or detriment of the respective successors and assigns of such parties whether so expressed or not.

Section 4.7. Restriction on Transfer of Bonds.

(a) Notwithstanding the Bondholder's intent to purchase the Bonds without a view to resell such Bonds as described in Section 2.3 hereof, the Bondholder hereby agrees and

acknowledges that, in any event, the transfer of the Bonds may be made from time to time only to a purchaser described in this Section.

(b) The Bonds may only be sold, transferred or otherwise conveyed, in whole to: (i) a Qualified Institutional Buyer, (ii) an Accredited Investor, (iii) a Municipal Issuer, (iv) an Affiliate of the current Bondholder, or (v) a trust or custodial arrangement in which all of the beneficial ownership interests would be owned by one or more of the entities described in the preceding clauses. Each transferee described in clauses (i) thru (iii), in connection with its acquisition of an interest in such arrangement, is required to deliver to the Bond Registrar a purchaser's letter substantially in the form attached hereto as *Exhibit B*, with no revisions except as may be approved in writing by the Issuer. It shall not be necessary for a transferee described in clauses (iv) or (v) to provide a Purchaser's Letter.

(c) The Bondholder understands and agrees that this restriction on transfer shall be printed prominently on the form of the Bond or any replacement Bond. The provisions of this Section 4.7 shall apply to all transfers of the Bond subject to the transfer restrictions set forth in this Section 4.7, and any transfer in violation of the provisions of this Section 4.7 shall be null and void. The Note, Collateral Documents and the other Pledged Security shall be assigned to any subsequent Holder of the Bond and the Borrower, Issuer, Lender and each Holder agree to execute any documents to document such transfer at the request of a subsequent Holder of the Bond.

Section 4.8. Redemption of Bonds Prior to Maturity.

(a) Mandatory Redemption Due to Event of Taxability. Upon the occurrence of an Event of Taxability with respect to the Bonds, the Bonds are subject to mandatory redemption in whole, but not in part, at a redemption price equal to 100% of the Outstanding principal amount thereof, plus accrued interest at the Default Rate to the redemption date. Such redemption shall occur on the earliest practicable date selected by the Bondholder but in no event later than five (5) Business Days following the notification to the Bondholder under Section 4.9(c) of the Event of Taxability.

(b) Mandatory Sinking Fund Redemption. The Bonds shall be subject to mandatory redemption prior to the Maturity Date beginning on [PRINCIPAL AMORTIZATION START DATE] at a redemption price equal to 100% of the principal amount thereof (plus accrued interest to the date of redemption) from mandatory sinking fund installments which are required to be made in amounts sufficient to redeem the Bonds on the dates and in the principal amounts set forth in the sinking fund schedule attached hereto as *Exhibit C*.

(c) Reserved.

(d) Amounts Due Upon Redemption. In connection with any redemption of the Bonds, the Borrower shall pay to the Bondholder the redemption price of the Bonds as set forth herein, in an amount equal to 100% of the Outstanding principal amount thereof, plus accrued interest at the Interest Rate to the redemption date, plus any amounts due and owing to the Bondholder or the Issuer under this Agreement and/or the Borrower Documents.

(e) Redemption at the Option of the Borrower. On any Interest Payment Date, the Borrower may prepay the Note and the Bonds by paying to the Bondholder the amounts set forth in clause (d).

Section 4.9. Additional Amounts Payable and Additional Obligations Following an Event of Taxability.

(a) If an Event of Taxability occurs, the Borrower shall pay to the Bondholder the following additional amounts with respect to the Bonds no later than the redemption date of the Bonds under Section 4.8(b):

(1) Until payment of the Bonds in full, on or before each Interest Payment Date, accrued interest on the Bonds calculated at the Default Rate.

(2) Within seven (7) Business Days after demand by the Bondholder, regardless of whether such demand is made before, at or after the maturity of the Bonds, and regardless of whether or not the demand is made after payment in full of the Bonds, the Borrower shall pay the following additional amounts:

(i) an amount equal to the difference between (i) the interest payments that would have been payable on the Bonds had such interest payments been calculated from the Date of Taxability at the Default Rate, and (ii) the interest payments that were paid or that would have been payable on the Bonds from the Date of Taxability had the Event of Taxability not occurred, and

(ii) the amount of penalties, additions to tax or interest assessed against the Bondholder on account of the inclusion of the interest payments on the Bonds in the Bondholder's gross income for federal income tax purposes.

(b) If an Event of Taxability occurs following the payment in full of the principal of, premium, if any, and interest on the Bonds, the Bondholder, once it has knowledge of the Event of Taxability, either by notice provided under (c) below, or otherwise shall give written notice to the Borrower and the Issuer of such Event of Taxability and, within ten (10) days after the notice is given, the Borrower shall pay to the Bondholder an amount equal to 100% of all amounts payable pursuant to subsection (A) hereof.

(c) The Borrower or the Issuer or both shall give notice to the Bondholder within ten (10) days after the occurrence of an Event of Taxability, whether the Event of Taxability occurs before or after the payment in full of debt service on the Bonds.

(d) The Bondholder, at any time and from time to time, and for any reason, may request an opinion of Bond Counsel under clause (D) of the definition "Event of Taxability." The Borrower shall pay the fees and expenses of Bond Counsel for providing that opinion.

(e) The obligations of the Borrower under this Section shall survive the payment in full of all sums due under the Bonds and this Section and shall continue in full force and effect until ninety (90) days after all applicable statutes of limitations have run (after taking into account all extensions and suspensions thereof) in respect of any taxable year during which any payment of interest on the Bonds was received or accrued.

[End of Article IV]

ARTICLE V.
LOAN TO THE BORROWER; SECURITY; TITLE

Section 5.1. The Loan; Loan Payments.

Upon the terms and conditions of this Agreement, the Issuer will make the Loan to the Borrower in a single disbursement, using the proceeds from the sale of the Bonds to pay the Purchase Price of the Bonds.

In consideration of, and in repayment of the Loan, the Borrower shall execute and deliver the Note, in substantially the form attached hereto as *Exhibit A-2* concurrently with the execution and delivery of this Agreement.

Upon payment in full of the Bond Service Charges on the Bonds, whether at maturity or by redemption or otherwise, plus all amounts due to the Bondholder or the Issuer hereunder or under the Borrower Documents, the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Bondholder to the Borrower and shall be cancelled by the Borrower.

Section 5.2. Additional Payments.

The Borrower also shall pay, or cause to be paid, as and when the same become due: (i) to the Bondholder its reasonable fees and expenses, including without limitation the reasonable fees of its counsel, all charges for exchange, registration or transfer of Bonds and all other such amounts which the Borrower herein assumes or agree to pay along with all amounts due to the Bondholder in connection with the Loan under any of the Borrower Documents; (ii) to the Issuer or to any payee designated by the Issuer, the Issuer Fees and Expenses as provided herein, and all expenses of the Issuer, its agents or employees reasonably incurred at any time related to the Bonds or the Project or the financing thereof, including, without limitation, legal and advisory fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Bonds or in connection with questions or other matters arising under such documents, which amounts shall be paid no later than thirty (30) days after receipt of request for payment thereof (including reasonable documentation of such expenses); (iii) to the Rebate Analyst, the Rebate Analyst Fee and; (iv) any Rebate Amount; provided, however, that the aggregate of all such amounts paid to the Issuer, or to the Bondholder on its behalf, shall not equal or exceed an amount which would cause the “yield” on any “nonpurpose investment” to be “materially higher” than the “yield” on the Bonds, as such terms are defined in the Code.

Section 5.3. Obligations Unconditional.

The obligations of the Borrower to make Loan Payments, and Additional Payments hereof shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Bondholder or any other Person.

Section 5.4. Cap Required.

At all times prior to the termination of this Agreement as provided in Section 8.1, Cap Documents meeting the requirements of the Continuing Covenants Agreement shall remain in full force and effect and shall secure the Note and the Bonds. If the Cap Documents are terminated for any reason, the Borrower shall cooperate in obtaining the delivery and assignment to the Bondholder of substitute or replacement

Cap Documents with substantially the same economic terms (including payment dates, strike price, termination provisions) as the original Cap Documents within 30 days of notice of such termination. The Borrower acknowledges and agrees that the Bondholder may arrange for the delivery of any such substitute or replacement Cap Documents on the Borrower's behalf. Any replacement Cap Document and Cap Provider must be acceptable to the Bondholder in its sole discretion.

[End of Article V]

**ARTICLE VI.
ADDITIONAL AGREEMENTS AND COVENANTS**

Section 6.1. Right of Inspection.

Subject to reasonable security and safety regulations and upon reasonable notice, the Issuer and the Bondholder, and their respective agents, shall have the right during normal business hours to inspect the Project.

Section 6.2. Sale, Lease or Grant of Use by Borrower.

Subject to the provisions of any lease or other agreement to which the Borrower is a party or by which it is bound (including the Loan Documents), and except for any lease by the Borrower of apartment units, garages or storage units in the Project in the ordinary course of business subject to the Continuing Covenant Agreement, the Borrower may lease or grant the right to occupy and use the Project, in whole or in part, to others, provided that:

(a) No such lease or grant shall impair materially the purposes of the Act to be accomplished by operation of the Project as herein provided or adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(b) There shall be delivered to the Bondholder an opinion of Bond Counsel addressed to the Bondholder, in form and substance reasonably acceptable to the Bondholder, to the effect that such assignment or leasing shall not adversely affect the tax-exempt status of the interest payable on the Bonds then outstanding or the validity of the Bonds under the Act; and

(c) The assignee, lessee or transferee shall assume in writing all obligations of the Borrower under this Agreement.

Section 6.3. Indemnification.

The Borrower releases the Issuer and the Bondholder from, agrees that neither the Issuer nor the Bondholder shall be liable for, and shall indemnify the Issuer and the Bondholder against, all liabilities, claims, investigations, audits, costs and expenses, including attorneys' fees and expenses, imposed upon, incurred or asserted against the Issuer and/or the Bondholder on account of: (a) any loss or damage to property or injury to or death of or loss by any Person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation, leasing, subleasing and other use of the Project; (b) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Note, any Borrower Document or any related document, or arising from any act or failure to act by the Borrower, or any of the Borrower's agents, contractors, servants, employees or licensees; (c) the authorization, issuance, sale, trading, redemption or servicing of the Bonds, and the provision of any information or certification furnished in connection therewith concerning the Bonds, the Project or the Borrower, any information furnished by the Borrower for, and included in, or

used as a basis for preparation of, any certifications, information statements or reports furnished by the Issuer, and any other information or certification obtained from the Borrower to assure the exclusion of the interest on the Bonds from gross income of the Bondholder thereof for federal income tax purposes; (d) the Borrower's failure to comply with any requirement of this Agreement or the Code pertaining to such exclusion of that interest, including the covenants in Section 6.4 hereof, and (e) any claim, action, investigation, or proceeding brought with respect to the matters set forth in (a), (b), (c), or (d) above.

The Borrower agrees to indemnify the Issuer and Bondholder for, and to hold it harmless against, all liabilities, claims, costs and expenses incurred without gross negligence or willful misconduct on the part of the Bondholder on account of any action taken or omitted to be taken by the Bondholder in accordance with the terms of this Agreement, the Bonds or the Note or any action taken at the request of or with the consent of the Borrower, including the costs and expenses of the Bondholder in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under this Agreement, the Bonds or the Note.

The Borrower also agrees to indemnify and to defend and hold the Issuer and Bondholder harmless against (i) any brokerage commissions or finder's fees claimed by any broker or other party in connection with the transactions contemplated hereby, except with respect to Section 4.7 hereof, and (ii) any losses, costs, damages or expenses that the Issuer and Bondholder have actually incurred, directly or indirectly, including reasonable attorneys' fees, as a result of or in connection with the assertion against the Issuer and Bondholder, as applicable, of any claims relating to the presence or removal of any environmental contamination on the Project or any adjacent property.

In case any action or proceeding is brought against the Issuer or the Bondholder in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give that notice shall not relieve the Borrower from any of the Borrower's obligations under this Section unless that failure materially prejudices the defense of the action or proceeding by the Borrower. At the Borrower's expense, an indemnified party may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without the Borrower's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers and employees of the Issuer and the Bondholder, respectively. That indemnification is intended to and shall be enforceable by the Issuer and the Bondholder, respectively, to the full extent permitted by law.

Notwithstanding anything to the contrary in this Section 6.3, (i) the Borrower shall not be obligated to indemnify the Bondholder pursuant to this Section 6.3 for any liability arising solely out of the gross negligence or willful misconduct of the Bondholder, and (ii) the Borrower shall not be obligated to indemnify the Issuer pursuant to this Section 6.3 for any liability arising solely out of the willful misconduct of the Issuer.

Section 6.4. Borrower Not to Adversely Affect Exclusion from Gross Income of Interest on Bonds.

The Borrower hereby represents to Issuer and Bondholder that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and represents that it has not taken or permitted to be taken on its behalf,

and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such exclusion under the provisions of the Code. The Borrower covenants that the proceeds of the Bonds will be spent on Project Costs in accordance with the Tax Agreement.

The Borrower (including a “related person” thereto within the meaning of Section 147(a)(2) of the Code) may purchase Bonds; however, the Borrower shall not, pursuant to any arrangement, formal or informal, purchase Bonds in an amount related to the amount of the Loan funded pursuant to this Agreement.

Section 6.5. Assignment by Issuer; No Additional Liens.

Except as and to the extent contemplated by the Fee and Leasehold Deed of Trust, the Issuer shall not attempt to assign, transfer or convey its interest in the Pledged Revenues. The Issuer will not, without the prior written consent of the Bondholder, create, assume or suffer to exist any assignment, mortgage, deed of trust, pledge, security interest or other lien, encumbrance or charge on (1) the Project, other than Permitted Encumbrances, or (2) any revenues derived or to be derived from the Project, other than the Loan Documents, or (3) the proceeds of the Bond, other than the Loan Documents.

Section 6.6. Affirmative Covenants of the Borrower.

Unless the Issuer and the Bondholder shall otherwise consent in writing:

(a) Maintenance of Project. The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to said properties. All damage to Project units shall be repaired promptly, and all units shall be reasonably maintained so as to be available at all times for habitation.

(b) Keeping of Records and Books of Account. The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with GAAP, reflecting all financial transactions.

(c) Payment of Taxes, Etc. The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other Governmental charges or levies imposed upon the Project or income or profits from the Project, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a Lien upon the Project; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe all covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any Lien existing at any time upon the Project; provided, however, that the Borrower shall not be required to pay any of the foregoing if (i) the Borrower shall have set aside on its books, in accordance with GAAP, adequate reserves with respect thereto, (ii) the right of the Borrower to use the Project is not materially and adversely affected thereby, and (iii) the Borrower has received the written consent of the Bondholder or the Bondholder Representative that the payment of such amounts is not required. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other governmental charges or levies or the premium on any required insurance (including taxes paid under protest), the Issuer or the Bondholder may make such payment, but is not obligated to do so, and the Issuer and/or the Bondholder, as applicable, shall be reimbursed by the Borrower therefor with interest on the amount so advanced.

(d) Insurance. The Borrower shall at all times maintain builder's risk, commercial liability, property, and shall contractually require the general contractor to maintain worker's compensation, insurance in the amounts required by the Bondholder in accordance with the terms of the Loan Documents. In addition, the Borrower shall obtain promptly such other or additional insurance as may be reasonably required pursuant to the Loan Documents and the Issuer Documents.

(e) Notice of Certain Events. The Borrower shall promptly notify the Bondholder in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it may hereafter become a party or be subject to which may involve any risk of any adverse judgment or liability of more than \$50,000 or which may otherwise result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the Borrower or which may impair the ability of the Borrower to perform in accordance with the Bond Documents, or any other agreement or instrument herein or therein contemplated. In the event that any Event of Default occurs, or there exist facts or circumstances which, with the passage of time, the giving of notice, or both, would constitute an Event of Default, the Borrower shall give prompt notice in writing of such happening to the Bondholder. The Borrower shall also promptly notify the Bondholder and the Bondholder Representative in writing of any of the following events:

(i) Any change with respect to the business, assets, liabilities, financial condition, results of operations or business prospects of the Borrower other than changes in the ordinary course of business the effects of which have not been materially adverse.

(ii) A default by the Borrower under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(f) Performance of Contracts, Etc. The Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower or would materially impair the ability of the Borrower to perform its obligations under this Agreement or any other agreement or instrument herein or therein contemplated.

(g) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform, upon request of the Bondholder Representative, such acts as may be necessary or advisable to perfect and maintain any Lien provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Borrower shall promptly execute, deliver and perform or cause to be done, executed, delivered and performed, on request of the Bondholder Representative, all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements, security agreements, assignments of leases and mortgages as may be necessary or advisable to perfect or maintain any such Lien on any and all assets or rights in the Project owned by the Borrower, or any interest of the Borrower therein, which are the subject of such Lien and the Bondholder and its officers, employees and authorized agents, or any of them, are hereby irrevocably appointed the attorneys-in-fact of the Borrower to do all acts and things which the Bondholder Representative may deem necessary or advisable to preserve, perfect and continue perfected any Lien in favor of the Bondholder.

(h) Change in Organization. Subject to the provisions of the Bond Documents, the Borrower shall inform the Bondholder and the Issuer in writing within ten (10) days of any change, amendment, or modification of its place of organization, form of organization, or change in any Borrower's name (including, but not by way of limitation, resulting from mergers, acquisitions, tax free exchanges, or other transactions) (all of which are sometimes referred to as "**Corporate Changes**," regardless of whether the Borrower is organized as a corporation, partnership, limited partnership, limited liability company, limited liability partnership, sole proprietorship, or other form of entity recognized under the law of the state in which the Borrower is organized), and Borrower shall cooperate with the Bondholder by executing, if necessary, as soon as reasonably practicable after receipt thereof any and all amendments to UCC financing statements deemed necessary by the Bondholder Representative to insure that the security interest of the Bondholder in any and all collateral of the Borrower remains fully perfected. The Bondholder may rely on opinions of counsel as to whether any or all UCC financing statements of the Borrower need to be amended as a result. If the Borrower fails to provide information to the Bondholder about Corporate Changes on a timely basis, the Bondholder shall not be liable or responsible to any party for any failure to maintain a perfected security interest in the Borrower's collateral, for which the Bondholder needed to have information about the Corporate Changes. The Bondholder shall have no duty to inquire about Corporate Changes if the Borrower does not inform the Bondholder of such Corporate Changes, the parties acknowledging and agreeing that it would not be feasible or practical for the Bondholder to search for information on the Corporate Changes if the Borrower does not provide such information.

The Borrower shall not file or record any instrument or document with any entity, officer or office having responsibility for recording of security interests which purports to terminate, vitiate or extinguish a security interest in the collateral in which the Bondholder holds a security interest (a "**Debtor Termination Statement**"). The Borrower shall provide the Bondholder and Issuer with copies of any Debtor Termination Statement that the Borrower files in violation of the covenant contained in the previous sentence.

(i) Environmental Matters. Subject to the requirements of the Issuer Documents, the Borrower will take and continue to take prompt action to remedy, all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems relating to the Project, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, county, state, federal, administrative or judicial authority, or otherwise.

(j) Non-discrimination. The Borrower will require the manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin, sex, religious belief, marital status, family status, sexual orientation or any other protected class.

(k) Mechanics' Liens. The Borrower will not suffer or permit any mechanics' lien claims to be filed or otherwise asserted against the Project or any funds due any contractor, and will promptly bond or discharge the same if any claims for lien or any proceedings for the enforcement thereof are filed or commenced; provided, however, that the Borrower, to the extent permitted in the Loan Documents, shall have the right to contest in good faith and with due diligence the validity of any such lien or claim upon furnishing to the title agent such security or indemnity as it may require to induce the title agent to issue its title policy or an endorsement thereto insuring against all such claims, liens or proceedings.

(l) Proceedings to Enjoin or Prevent Construction. If any proceedings are filed seeking to enjoin or otherwise prevent or declare unlawful the construction, renovation,

occupancy, maintenance or operation of the Project or any portion thereof, the Borrower shall at its sole expense (i) cause such proceedings to be vigorously contested in good faith and (ii) in the event of an adverse ruling or decision, prosecute all allowable appeals therefrom. Without limiting the generality of the foregoing, the Borrower shall resist the entry or seek the stay of any temporary or permanent injunction that may be entered and use its best efforts to bring about a favorable and speedy disposition of all such proceedings.

(m) Signage. Each or both of the Issuer and the Bondholder, with reasonable notice to the Borrower and subject to Borrower's approval of location, may place signs at the Project indicating that it is a source of financing for the Project. Any such signage will be in conformation with Issuer's signage requirements set forth in the Issuer Documents.

[End of Article VI]

ARTICLE VII. EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default.

Each of the following shall be an Event of Default:

(a) Failure of the Borrower to make any Loan Payments when due, subject to a one-day cure period.

(b) Failure of the Borrower to observe or perform any of the other covenants or conditions by the Borrower to be performed under the terms of this Agreement or any other Borrower Document, Loan Document or Issuer Document concerning the payment of money, after ten (10) calendar days written notice from the Bondholder that the same is due and payable; provided that if a different notice, grace or cure period is specified in any other Borrower Document, any Loan Document or any Issuer Document with respect to such particular monetary breach, such specific provision shall control.

(c) Failure of the Borrower to observe or perform any non-monetary covenant or condition contained in this Agreement, any other Borrower Document, any Loan Document or any Issuer Document for a period of thirty (30) days after written notice from the Bondholder; provided that if any such failure concerning a non-monetary covenant or condition is susceptible to cure and cannot reasonably be cured within said thirty (30) day period, then the Borrower shall have an additional thirty (30) day period to cure such failure and no Event of Default shall be deemed to exist hereunder so long as (x) the Borrower commences such cure within an initial thirty (30) day period and diligently and in good faith pursues such cure to completion within such resulting sixty (60) day period from the date of the Bondholder's notice, and (y) the existence of such default will not result in any tenant having the right to terminate its lease due to such default; and provided further that if a different notice or grace period is specified in this Agreement or in any other Borrower Document, any Loan Document or any Issuer Document with respect to a particular breach, the specific provision shall control.

(d) If any warranty, representation, statement, report or certificate made now or hereafter by the Borrower, either Guarantor, General Partner, or the Class B Limited Partner is false at the time made or delivered, provided that if such breach is reasonably susceptible of cure in the judgment of the Bondholder Representative, then no Event of Default shall exist so long as the Borrower cures said breach within 30 days of receiving notice of any other breach.

(e) The Borrower, General Partner, Class B Limited Partner, either Guarantor, the Investor Limited Partner shall commence a voluntary case under the Bankruptcy Code; or an involuntary proceeding is commenced against the Borrower, General Partner, Class B Limited Partner, either Guarantor or the Investor Limited Partner under the Bankruptcy Code and relief is ordered against the Borrower, General Partner, Class B Limited Partner, said Guarantor, or the Investor Limited Partner, or the petition is controverted but not dismissed or stayed within ninety (90) days after the commencement of the case, or a custodian (as defined in the Bankruptcy Code) is appointed for or takes charge of all or substantially all of the property of the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner; or the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner commences any other proceedings under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner; or there is commenced against the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner any such proceeding which remains undismissed or unstayed for a period of ninety (90) days; or the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner fails to contest in a timely manner any such case under the Bankruptcy Code or any such proceeding, or any order of relief or other order approving any such case or proceeding is entered; or the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner by any act or failure to act indicates its consent to, approval of, or acquiescence in any such case or proceeding or the appointment of any custodian or the like of or for it for any substantial part of its property or suffers any such appointment to continue undischarged or unstayed for a period of sixty (60) days; and, in the case of a default under this paragraph (e) due to any Guarantor, Borrower fails to secure a replacement guarantor who shall assume the obligations of such defaulted Guarantor within ninety (90) days of such default, such replacement guarantor and the terms of such assumption or replacement guaranties to be subject to Lender's approval, in its sole but reasonable discretion. Notwithstanding the foregoing, this paragraph (e) shall not apply to the Investor Limited Partner once all of its scheduled capital contributions pursuant to the Partnership Agreement have been paid in.

(f) The Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof or if all or a substantial part of the assets of the Borrower, General Partner, Class B Limited Partner, either Guarantor, or the Investor Limited Partner are attached, seized, subjected to a writ or distress warrant, or are levied upon, or come into the possession of any receiver, trustee, custodian or assignee for the benefit of creditors, and such order, judgment or decree shall remain unvacated or not set aside for sixty (60) days; and, in the case of a default under this paragraph (e) due to any Guarantor, Borrower fails to secure a replacement guarantor who shall assume the obligations of such defaulted Guarantor within ninety (90) days of such default, such replacement guarantor and the terms of such assumption or replacement guaranties to be subject to Lender's approval, in its sole but reasonable discretion. Notwithstanding the foregoing, this paragraph (e) shall not apply to the Investor Limited Partner once all of its scheduled capital contributions pursuant to the Partnership Agreement have been paid in.

(g) The Borrower is enjoined, restrained or in any way prevented by any court order from constructing or operating the Project, and such order, judgment or decree shall remain unvacated or not set aside for sixty (60) days.

(h) One or more final judgments or liens for the payment of money are entered (i) in an amount in excess of \$[_____] against Borrower or (ii) prior to the commencement of the Permanent Period, in an amount in excess of \$500,000 against either Guarantor, unless, in each case, the judgment or lien is satisfied, discharged, or bonded off within sixty (60) days from the date of entry of said judgment or lien or unless such judgment or lien is not covered by applicable insurance coverages, as determined by the Bondholder, in Bondholder's reasonable discretion.

(i) The occurrence of any other event or circumstance denominated as an Event of Default herein or under any of the other Borrower Documents and the expiration of any applicable grace or cure periods, if any, specified for such Event of Default herein or therein, as the case may be.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 7.2. Remedies on Default.

Whenever an Event of Default shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) The Bondholder may declare, by written notice to the Issuer and the Borrower, to be immediately due and payable, the unpaid principal amount of the Bonds and the payments to be made by the Borrower therefor pursuant to this Agreement and the Note, and accrued interest on the foregoing at the Default Rate, whereupon the same shall become immediately due and payable;

(b) [Reserved];

(c) [Reserved];

(d) The Bondholder may pursue all remedies now or hereafter existing under any of the Borrower Documents or Guaranties, at law or in equity, to collect all amounts then due and thereafter to become due under any of the Borrower Documents and/or the Guaranties or to enforce the performance and observance of any other obligation or agreement of the Borrower, General Partner, Class B Limited Partner, either Guarantor and/or Investor Limited Partner under those instruments.

Notwithstanding the foregoing, the Issuer shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond or other assurance satisfactory to the Issuer has been furnished to the Issuer at no cost or expense to the Issuer.

The provisions of this Section are subject to the further limitation that the rescission by the Bondholder of its declaration that any of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Section 7.3. Control of Remedies.

(a) If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Bondholder shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Agreement or any other Bond Document or Loan Document, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Agreement. In addition, the Bondholder shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Bond Documents and Loan Documents with or without the involvement of the Issuer. In no event shall the exercise of any of the foregoing rights result in an acceleration of the Bonds or the Loan without the express direction of the Bondholder.

(b) The Issuer covenants that it will not, without the prior written consent of the Bondholder or Bondholders Representative (which consent shall not be unreasonably withheld, conditioned or delayed), take any of the following actions:

(i) prosecute any action with respect to a lien on the Project; or

(ii) initiate or 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 Loan; or

(iii) interfere with or attempt to influence the exercise by the Bondholder of any of its rights under the Bond Documents or Loan Documents upon the occurrence of any event of default by the Borrower under the Bond Documents or Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bonds or the Loan.

(c) Notwithstanding the terms of sub-section (a) above, the Issuer may:

(i) specifically enforce the tax covenants of the Borrower specified in Section 2.2 hereof or seek injunctive relief against acts which may be in violation thereof; and

(ii) specifically enforce the Tax Regulatory Agreement or seek injunctive relief against acts which may be in violation of the Tax Regulatory Agreement or are otherwise inconsistent with the operation of the Project in accordance with applicable requirements of the Internal Revenue Code and state law (but in neither the case of subsection (c)(i) above or this subsection (c)(ii) may the Issuer seek any form of monetary damages from the Borrower in connection with such enforcement).

In addition, notwithstanding the terms of sub-section (a) above, the Issuer may seek specific performance of the other Unassigned Rights (provided no monetary damages are sought), and nothing herein shall be construed to limit the rights of the Issuer or any Indemnified Party related to the Issuer under Section 6.3 (each a **“Related Indemnified Party”**) to enforce their respective rights against the Borrower under Sections 5.2, 6.3 and 7.4 hereof, provided that no obligation of the Borrower to the Issuer or any Related Indemnified Party under such sections shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Issuer or any Related Indemnified Party, and all such obligations are and shall be subordinate in priority, in right to payment and in all other respects to all other obligations, liens, rights (including without limitation the right to payment) and interests arising

or created under the Loan Documents. Accordingly, neither the Issuer or any Related Indemnified Party shall have the right to enforce any monetary obligation arising under such sections other than directly against the Borrower, without recourse to the Project. Any such enforcement must not cause 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.

Section 7.4. No Remedy Exclusive.

No remedy conferred upon or reserved to the Issuer or the Bondholder by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under any of the Bond Documents, the Borrower Documents and/or Guaranties now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.5. Agreement to Pay Attorneys' Fees and Expenses.

If a default or an Event of Default or any fact, condition or event which, with the giving of notice or passage of time or both, could become an Event of Default, should occur and the Issuer or the Bondholder incur expenses, including attorneys' fees, in connection with the enforcement of any of the Bond Documents, the Borrower Documents, the Issuer Documents or the collection of sums due thereunder, the Borrower shall reimburse the Issuer for its expenses and the Bondholder for its expenses as each one so incurred upon demand.

Section 7.6. No Waiver.

No failure by the Issuer or the Bondholder to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

Section 7.7. Notice of Default.

The Borrower shall notify the Bondholder, the Investor Limited Partner, the Special Limited Partner and Issuer immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, could become an Event of Default.

Section 7.8. Cure by Investor Limited Partner and Special Limited Partner.

The Issuer and the Bondholder agree that the Investor Limited Partner and Special Limited Partner, each and together, may act to cure any Event of Default hereunder and the Issuer and the Bondholder shall accept such cure as though made by the Borrower, *provided*, the Investor Limited Partner and Special Limited Partner, as applicable, may so act only if a cure right is specifically provided to the Borrower in connection with any such Event of Default hereunder and subject to the same terms and conditions applicable to Borrower with respect to the same.

[End of Article VII]

**ARTICLE VIII.
MISCELLANEOUS**

Section 8.1. Term of Agreement.

This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Bondholder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) and all other sums payable by the Borrower under this Agreement, the Note or any other Borrower Document or Loan Document shall have been paid, except for obligations of the Borrower under Section 6.3 and 6.4 hereof, which shall survive any termination of this Agreement.

Section 8.2. Notices.

All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by first class mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Borrower, the Investor Limited Partner, the Bondholder Representative or the Bondholder shall also be given to the others. The Borrower, the Investor Limited Partner, the Issuer, the Bondholder Representative and the Bondholder, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 8.3. Extent of Covenants of the Issuer; No Personal Liability.

All covenants, obligations and agreements of the Issuer contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Issuer in other than his official capacity, and neither the members of the Issuer nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement.

Section 8.4. Binding Effect.

This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower and the Bondholder and their respective permitted successors and assigns; provided that this Agreement may not be assigned by the Borrower or the Issuer except with the prior written consent of the other parties hereto and, with respect to the Issuer, only to the extent necessary to enforce or secure payment of Bond Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

Section 8.5. Amendments.

This Agreement may be amended with the prior written consent of the Issuer, the Borrower and the Bondholder.

Section 8.6. Execution Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 8.7. Severability.

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 8.8. Governing Law.

This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

Section 8.9. Conflicts.

In the event of any conflict between any provision of this Agreement and the provisions of the Continuing Covenants Agreement, the provision that imposes the greater obligation on the Borrower (as determined by the Bondholder, in its sole discretion) shall govern and be controlling in all respects.

Section 8.10. Determinations.

Absent manifest error, the determinations made by the Bondholder pursuant to this Agreement (including the Bondholder's records with respect thereto) with respect to current par amount outstanding of the Bonds, applicable interest rate, calculation of interest, the amount of any payment due on the Bonds, and the dates and amounts of advances and payments shall be final and binding on the Borrower, the General Partner, the Class B Limited Partner, the Investor Limited Partner or any other Affiliate of the Borrower shall be conclusive and binding on the Borrower and all other Persons.

Section 8.11. Bondholder Representative.

(a) The Bondholder Representative shall be entitled to all the rights and privileges of the Bondholder hereunder and under the other Loan Documents and may take any action permitted hereunder on behalf of the Bondholder.

(b) At any time, the Bondholder may appoint a Bondholder Representative or may remove a previously appointed Bondholder Representative and appoint a successor by delivering a written notice to the Issuer, the Servicer, the Borrower, and the former Bondholder Representative, if any. The removal and reappointment shall be effective immediately. The Bondholder may appoint any Person to act as Bondholder Representative, including, without limitation, the Servicer.

(c) If, for any reason, a Bondholder Representative resigns by written notice provided to the Bondholder, the Issuer, the Servicer and the Borrower, all references to Bondholder Representative herein and in the other Loan Documents shall be deemed to refer to the Bondholder until a successor Bondholder Representative is appointed by the Bondholder.

(d) Whenever pursuant to this Agreement or any other Loan Document, the Bondholder Representative exercises any right given to it in a Loan Document, the decision of the Bondholder Representative to approve or disapprove or to decide whether arrangements or terms

are acceptable or not acceptable shall be in the sole discretion of the Bondholder Representative, except as otherwise specifically indicated.

(e) Each Bondholder, by their purchase or other acquisition of all or any portion of the Bond, shall be deemed to have acknowledged and agreed to the provisions of this Agreement and the other Documents with respect to the Bondholder Representative and the rights and privileges thereof, including but not limited to the right to control all remedies in respect of the Note and the Loan.

Section 8.12. Servicer.

(a) At any time, the Bondholder or Bondholder Representative may appoint a Servicer or may remove a previously appointed Servicer and appoint a successor by delivering a written notice to Issuer, the Bondholder Representative and the Borrower. Any Servicer appointed hereunder shall signify its acceptance of the duties and obligations imposed upon it by the Loan Documents and this Agreement by executing such instrument(s) as shall be acceptable to the Bondholder, a copy of which shall be provided to the parties hereto.

(b) During any period that the Servicer services the Loan, unless otherwise directed by the Bondholder, the Borrower shall make all payments in connection with the Loan to the Servicer, and the Servicer will (i) collect, hold and maintain all required reserves, escrows and impounds under the Loan Documents, (ii) retain the allocable portion of the monthly servicing fee (if any) for its own account, (iii) remit to the Bondholder all payments of principal of, premium, if any, and interest due with respect to the Loan, together, with any other amounts due to the Bondholder, and (iv) remit to the Issuer, applicable Issuer Fees and Expenses.

(c) The Issuer and the Borrower hereby acknowledge and agree that the selection or removal of any Servicer is in the sole and absolute discretion of the Bondholder; and (iii) neither the Issuer or the Borrower shall terminate or attempt to terminate any Servicer as the servicer for the Loan or appoint or attempt to appoint a substitute servicer for the Loan.

[End of Article VIII]

IN WITNESS WHEREOF, the Issuer, the Bondholder and the Borrower have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE,
as Issuer

By: _____
Name: [____]
Its: [____]

ESPERO CHATTANOOGA LP,
a Tennessee limited partnership

By: Espero GP 2, LLC,
a Tennessee limited liability company,
its General Partner

By: _____
Anna Protano-Biggs
President

By: Espero SLP, LLC,
a Tennessee limited liability company,
its Class B Limited Partner

By: _____
Kim Buche
Authorized Representative

CEDAR RAPIDS BANK AND TRUST COMPANY, as Bondholder

By: _____
Name: _____
Its: _____

EXHIBIT A-1

FORM OF BOND

THIS BOND MAY BE OFFERED, SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED ONLY TO (I) A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT, (II) AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(A) UNDER THE SECURITIES ACT, (III) A MUNICIPAL ISSUER, (IV) AN AFFILIATE OF THE CURRENT BONDHOLDER, OR (V) A TRUST OR CUSTODIAL ARRANGEMENT IN WHICH ALL OF THE BENEFICIAL OWNERSHIP INTERESTS WOULD BE OWNED BY ONE OR MORE OF THE ENTITIES DESCRIBED IN THE PRECEDING CLAUSES. EACH TRANSFEREE DESCRIBED IN CLAUSES (I) THRU (III), IN CONNECTION WITH ITS ACQUISITION OF AN INTEREST IN SUCH ARRANGEMENT, IS REQUIRED TO DELIVER TO THE BOND REGISTRAR A PURCHASER'S LETTER. IT SHALL NOT BE NECESSARY FOR A TRANSFEREE DESCRIBED IN CLAUSES (IV) OR (V) TO PROVIDE A PURCHASER'S LETTER. THIS BOND IS ISSUABLE AND TRANSFERRABLE ONLY IN WHOLE IN DENOMINATIONS OF \$100,000 OR MORE OF PRINCIPAL AMOUNT.

**REGISTERED
NO. AR-___**

**REGISTERED
\$[BOND AMOUNT]**

**UNITED STATES OF AMERICA
STATE OF TENNESSEE**

\$ _____

**The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee
Multifamily Housing Revenue Refunding Bonds
(Espero Chattanooga Project), Series 20__**

INTEREST RATE	MATURITY DATE	DATED	CUSIP
Variable	[MATURITY DATE]	[CLOSING DATE]	N/A

REGISTERED OWNER: Cedar Rapids Bank and Trust Company (the "Bondholder")

MAXIMUM PRINCIPAL AMOUNT: [BOND AMOUNT WRITTEN] AND 00/100 DOLLARS

The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the "Issuer"), a public nonprofit corporation and instrumentality of the City of Chattanooga, Tennessee, for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount on the Maturity Date specified above, unless this Bond shall have been called for redemption and payment of the redemption price shall have been duly made or provided for, which shall be equal to the principal amount of \$[BOND AMOUNT] as shown in the records of the Bondholder and to pay from said sources interest on the unpaid balance of said Principal Amount from and after the respective date of each advance on this Bond until the principal amount is paid or duly provided for as set forth below.

This Bond shall bear interest at the Interest Rate or the Default Rate, as applicable, as defined in the Bond Financing Agreement dated as of [_____] (the "Bond Financing Agreement"), among the Issuer, Espero Chattanooga LP (the "Borrower") and Cedar Rapids Bank and Trust Company, as the bondholder (the "Bondholder").

Interest on this Bond is payable on the first Business Day of each month commencing [_____]. Commencing on [START DATE], the principal of this Bond shall be subject to mandatory sinking fund redemption as set forth in the Bond Financing Agreement. The entire unpaid principal, premium, if any, and all accrued interest on this Bond shall be due and payable on the Maturity Date.

Subject to adjustment as herein provided, any principal outstanding hereunder will bear interest at the Interest Rate as defined in the Bond Financing Agreement. The principal of and interest and any premium on this Bond are payable in lawful money of the United States of America, without deduction for the services of any paying agent.

THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED AND SPECIAL OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE OR CREATE A DEBT OR OBLIGATION, EITHER GENERAL OR SPECIAL, OR LIABILITY OR MORAL OBLIGATION OF THE STATE OF TENNESSEE (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE ISSUER (WHICH HAS NO TAXING POWER AND RECEIVES NO FUNDS FROM ANY GOVERNMENTAL BODY) BUT ARE LIMITED AND SPECIAL REVENUE OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE PLEDGED REVENUES. PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE A VALID CLAIM ONLY AS AGAINST THE PLEDGED REVENUES, IS NOT A GENERAL OBLIGATION OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OR THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION OR AGENCY OF THE STATE OR THE ISSUER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS.

NEITHER THE BOARD OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF.

This Bond is one of a duly authorized issue of \$[Bond Amount] Multifamily Housing Revenue Refunding Bonds (Espero Chattanooga Project) Series 2023 (the "**Bonds**"), issued for the purpose of making a loan (the "**Loan**") to assist the Borrower in the financing of costs of the Project, all as defined and set forth in the Bond Financing Agreement. The Bonds are issued pursuant to Part 3 of Chapter 101 of Title 48 of the Tennessee Code Annotated, as amended, and by a resolution duly enacted by the Issuer on [September 16, 2024] (the "**Bond Resolution**").

Reference is made to the Bond Financing Agreement for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Borrower and the Bondholder, and the terms and conditions upon which the Bonds are issued and secured.

Pursuant to the Bond Financing Agreement, the Borrower has executed and delivered to the Issuer the Borrower's Promissory Note dated as of [CLOSING DATE] (the "**Note**"), in the principal amount of \$[FINAL PERM LOAN AMOUNT] as the same has been assigned by the Issuer to the Bondholder. The Borrower is required by the Bond Financing Agreement to make payments to the Bondholder in the

amounts and at the times necessary to pay the principal of and interest on the Bonds (the “**Bond Service Charges**”), and to pay such Bond Service Charges and any other amounts due and owing under the Bond Financing Agreement. To secure its compliance with certain covenants in the Bond Financing Agreement, the Borrower has executed and delivered a Land Use Restriction Agreement in connection with the Project (the “**Land Use Restriction Agreement**”) between the Borrower and the Issuer.

The Bond Service Charges on the Bonds are payable solely from the Pledged Security, as defined and as provided in the Bond Financing Agreement. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and in printed or typewritten form.

The Bonds are subject to redemption prior to stated maturity as set forth in the Bond Financing Agreement.

If Bonds are called for redemption and if on the redemption date all moneys required for the redemption thereof in full, as well as all other amounts due to the Bondholder under the Bond Financing Agreement, are held by the Bondholder, thereafter the Bonds shall cease to bear interest, and shall be deemed to have been paid and discharged pursuant to the Bond Financing Agreement.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (i) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the Issuer, and (ii) precedent to and in the execution and delivery of the Bond Financing Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Bond Financing Agreement or be valid or become obligatory for any purpose until executed.

In the event of any conflict between the terms of this Bond and the terms of the Bond Financing Agreement, the terms of the latter shall control.

IN WITNESS OF THE ABOVE, the Issuer has caused these Bonds to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

THE HEALTH, EDUCATIONAL AND HOUSING
FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE

By: _____
[]

Attest:

By: _____
[]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____ the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____ to transfer the within-mentioned Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature: _____

Please insert social security or other identifying number of assignee: _____

NOTICE: The signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT A-2

FORM OF NOTE

PROMISSORY NOTE

\$(FINAL PERM LOAN AMOUNT)

EFFECTIVE DATE: [_____] [_____]

FOR VALUE RECEIVED, **ESPERO CHATTANOOGA LP**, a Tennessee limited partnership (the “**Borrower**”), hereby promises to pay to the order of **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE**, a public nonprofit corporation of the State of Tennessee (the “**Holder**”), the principal sum of [_____] and 00/100 Dollars (\$[_____]), which amount has been advanced to or for the benefit of the Borrower pursuant to that certain Bond Financing Agreement dated as of [_____] (the “**Bond Financing Agreement**”), by and among the Borrower, Holder and Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation (“**Lender**”), in lawful money of the United States and immediately available funds, together with interest on the unpaid balance accruing from and after the date hereof.

Commencing on the Conversion Date (as defined in the Continuing Covenants Agreement), and effective as of the first day of each Accrual Period, the rate of interest hereunder for said Accrual Period shall be adjusted to be equal to the Benchmark plus [_____] percent ([_____]%) per annum. All such adjustments to said rate shall be made and become effective as of the first day of the Accrual Period and said rate as adjusted shall remain in effect until and including the day immediately preceding the next Accrual Period and shall be determined by Lender as of the Benchmark Determination Time.

Interest on this Note shall accrue at the interest rate in effect during each Accrual Period and shall be payable commencing on [_____] 1, 20[___], and on the first (1st) calendar day following such Accrual Period thereafter. Commencing on [_____] , Borrower shall make payments of principal as set forth on Schedule A attached hereto and incorporated herein. The full amount of principal and accrued interest hereunder shall be due and payable on [_____] (the “**Maturity Date**”). Notwithstanding anything to the contrary set forth herein, the Borrower agrees to make payments to the Lender in the amounts and at the times necessary to pay the principal of, premium, if any, and interest on the Bonds when due (the “**Bond Service Charges**”), and to pay such Bond Service Charges and any other amounts under the Bond Financing Agreement when due.

In all cases interest on this Note shall be calculated on the basis of a 360 day year but charged for actual days principal is unpaid.

Borrower may prepay this Note in whole or in part, or at any time, without penalty or premium.

In the event that any required payment of principal or interest hereunder (other than the balloon payment due on the Maturity Date) is not made within ten days after the due date thereof, Borrower shall pay to Holder a late payment charge equal to five percent (5.00%) of the amount of the overdue payment, for the purpose of reimbursing Holder for a portion of the expense incident to handling the overdue payment. This late payment charge shall not be prorated on a daily basis as payments are received by Holder. This provision shall not be deemed to excuse a late payment or to be a waiver of any other rights Holder may have, including the right to declare the entire unpaid principal balance and accrued interest immediately due and payable. Borrower agrees that the “late payment charge” is a provision for liquidated damages

and represents a fair and reasonable estimate of the damages Holder will incur by reason of the late payment, considering all circumstances known to Borrower and Holder on the date hereof. Borrower further agrees that proof of actual damages will be difficult or impossible.

Notwithstanding anything to the contrary contained herein, at all times in which an Event of Default (as defined in the Bond Financing Agreement) has occurred and is continuing hereunder beyond all applicable notice and cure periods, interest shall accrue on amounts outstanding hereunder at a rate equal to five percent (5.00%) per annum in excess of the rate otherwise payable hereunder (the “**Default Rate**”).

All payments and prepayments shall, at the option of Holder, be applied first to any costs of collection, second to any late charges, third to accrued interest on this Note, and lastly to principal.

Notwithstanding anything to the contrary contained herein, if the rate of interest, late payment fee or any other charges or fees due hereunder are determined by a court of competent jurisdiction to be usurious, then said interest rate, fees and/or charges shall be reduced to the maximum amount permissible under applicable Tennessee law.

This Note is issued pursuant to the terms of the Bond Financing Agreement, is secured by the Fee and Leasehold Deed of Trust (as defined in the Bond Financing Agreement), and is guaranteed by the Guarantors (as defined in the Bond Financing Agreement) pursuant to the terms and conditions of each Guaranty of Non-Recourse Carve-Outs, each dated as of the date hereof, and Lender is entitled to all of the benefits, respectively, provided for such party in said documents.

Upon the occurrence of an Event of Default that extends beyond all applicable notice and cure periods, the outstanding principal balance hereof and accrued interest and all other amounts due hereon shall, at the option of Holder, become immediately due and payable, without notice or demand.

Upon the occurrence of an Event of Default that extends beyond all applicable notice and cure periods, Holder shall have the right to set off any and all amounts due hereunder by the Borrower to Holder against any indebtedness or obligation of Holder to the Borrower.

Upon the occurrence of an Event of Default that extends beyond all applicable notice and cure periods, the Borrower promises to pay all costs of collection of this Note, including but not limited to reasonable attorneys’ fees, paid or incurred by Holder on account of such collection, whether or not suit is filed with respect thereto and whether such cost or expense is paid or incurred, or to be paid or incurred, prior to or after the entry of judgment.

Demand, presentment, protest and notice of nonpayment and dishonor of this Note are hereby waived, except for notice and cure rights set forth in the Loan Documents.

This Note shall be governed by and construed in accordance with the laws of the State of Tennessee.

The Borrower hereby irrevocably submits to the jurisdiction of Tennessee state court or federal court over any action or proceeding arising out of or relating to this Note, the Continuing Covenants Agreement, the Fee and Leasehold Deed of Trust and any instrument, agreement or document related thereto, and the Borrower hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such Tennessee state or federal court, selected by Holder in its sole discretion. The Borrower hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The Borrower agrees that judgment final by appeal, or expiration of time to appeal without an appeal being taken, in any such action or proceeding shall be conclusive and may be enforced in any other jurisdictions by suit on the judgment or

in any other manner provided by law. Nothing in this Paragraph shall affect the right of Holder to bring any action or proceeding against the Borrower or its property in the courts of any other jurisdiction to the extent permitted by law.

Time is of the essence with respect to all obligations of the Borrower under this Note.

If Holder delays in exercising or fails to exercise any of its rights under this Note, that delay or failure shall not constitute a waiver of any of Holder's rights or any breach, default, or failure of condition under this Note. No waiver by Holder of any of its rights or of any such breach, default or failure of condition shall be effective unless the waiver is expressly stated in a writing signed by Holder.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE BORROWER AND HOLDER WAIVES ITS RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED ON, ARISING FROM OR RELATED TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED BY THIS NOTE, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE BORROWER AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH OF THE BORROWER AND HOLDER FURTHER AGREES THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING THAT SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS NOTE. THIS WAIVER SHALL APPLY TO ANY FUTURE AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE.

Unless the context otherwise requires, the terms defined in this Note will have the meanings specified as follows:

"30-day Average SOFR" means, with respect to any U.S. Government Securities Business Day, the compounded average of SOFR over a rolling 30-calendar day period as such rate is published by the Federal Reserve Bank of New York (or a successor administrator), as the administrator of the benchmark, on the Federal Reserve Bank of New York's Website (or such successor administrator's website).

"Accrual Period" means the period from the first calendar day of each month to and including the last calendar day of each month, provided that the first Accrual Period shall begin on the Closing Date, and the last Accrual Period shall end on the date the Bonds are paid in full.

"Benchmark" means, initially, 30-day Average SOFR; provided that if Bondholder Representative determines prior to the Benchmark Determination Time that a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement.

"Benchmark Determination Time" means with respect to any determination of the Benchmark applicable to an Accrual Period (as defined below):

(A) 3:00 p.m. (New York time) on the U.S. Government Securities Business Day most recently preceding the first day of the month in which the Accrual Period begins; or

(B) If the Benchmark does not so appear on such day, 3:00 p.m. (New York time) on the first preceding U.S. Government Securities Business Day for which such rate was published on the Federal Reserve Bank of New York's Website.

Provided that if the Benchmark is not 30-day Average SOFR, the Benchmark Determination Time may be changed by the Bondholder Representative in connection with any Benchmark Replacement Conforming Changes.

“Benchmark Replacement” means the first alternative set forth in the order below that can be determined by Bondholder Representative as of the Benchmark Replacement Date.

- (a) the sum of: (1) the alternate rate of interest that has been selected or recommended by the Relevant Governmental Body as the replacement for the then-current Benchmark and (2) the Benchmark Replacement Adjustment;
- (b) the sum of: (1) the ISDA Fallback Rate and (2) the Benchmark Replacement Adjustment;
or
- (c) the sum of: (1) the alternate rate of interest that has been selected by Bondholder Representative as the replacement for the then-current Benchmark giving due consideration to any industry-accepted rate of interest as a replacement for the then-current Benchmark for U.S. dollar-denominated floating rate securities at such time and (2) the Benchmark Replacement Adjustment.

“Benchmark Replacement Adjustment” means the first alternative set forth in the order below that can be determined by Bondholder Representative as of the Benchmark Replacement Date:

- (a) the spread adjustment (which may be a positive or negative value or zero), or method for calculating or determining such spread adjustment, that has been selected or recommended by the Relevant Governmental Body for the applicable Unadjusted Benchmark Replacement;
- (b) if the applicable Unadjusted Benchmark Replacement is equivalent to the ISDA Fallback Rate, the ISDA Fallback Adjustment; or
- (c) the spread adjustment (which may be a positive or negative value or zero) that has been selected by Bondholder Representative giving due consideration to any industry-accepted spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the then-current Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated floating rate securities at such time.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to Interest Adjustment Periods, the timing and frequency of determining rates and making payments of interest, rounding of amounts or tenors, and other administrative matters) that Bondholder Representative decides may be appropriate to reflect the adoption of such Benchmark Replacement in a manner substantially consistent with market practice (or, if Bondholder Representative decides that adoption of any portion of such market practice is not administratively feasible or if Bondholder Representative determines that no market practice for use of the Benchmark Replacement exists, in such other manner as Bondholder Representative determines is reasonably necessary).

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark (including the daily published component used in the calculation thereof):

- (a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (1) the date of the public statement or publication of information referenced therein and (2) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark (or such component); or
- (b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

For the avoidance of doubt, if the event that gives rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Benchmark Determination Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Benchmark Determination Time for such determination.

“**Benchmark Transition Event**” means the occurrence of one or more of the following events with respect to the then-current Benchmark (including the daily published component used in the calculation thereof):

- (a) a public statement or publication of information by or on behalf of the administrator of the Benchmark (or such component) announcing that such administrator has ceased or will cease to provide the Benchmark (or such component), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark (or such component); or

- (b) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark (or such component), the central bank for the currency of the Benchmark (or such component), an insolvency official with jurisdiction over the administrator of the Benchmark (or such component), a resolution authority with jurisdiction over the administrator of the Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator of the Benchmark, which states that the administrator of the Benchmark (or such component) has ceased or will cease to provide the Benchmark (or such component) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark (or such component); or

- (c) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark announcing that the Benchmark is no longer representative.

“**Interest Adjustment Period**” means each successive one calendar month period until the entire Note is paid in full, except that the first Interest Adjustment Period is the period from the Effective Date through the last day of the calendar month in which the Effective Date occurs.

“**ISDA Definitions**” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time.

“**ISDA Fallback Adjustment**” means the spread adjustment (which may be a positive or negative value or zero) that would apply for derivatives transactions referencing the ISDA Definitions to be determined upon the occurrence of an index cessation event with respect to the Benchmark.

“ISDA Fallback Rate” means the rate that would apply for derivatives transactions referencing the ISDA Definitions to be effective upon the occurrence of an index cessation date with respect to the Benchmark for the applicable tenor excluding the applicable ISDA Fallback Adjustment.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“SOFR” means The Secured Overnight Financing Rate.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

“U.S. Government Securities Business Day” means any day except for a Saturday, a Sunday or a day on which the Securities Industry and Financial Markets Association (or a successor organization) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

[REMAINDER OF PAGE IS INTENTIONALLY LEFT BLANK]

BORROWER:

ESPERO CHATTANOOGA LP,
a Tennessee limited partnership

By: Espero GP 2, LLC,
a Tennessee limited liability company,
its General Partner

By: _____
Anna Protano-Biggs
President

By: Espero SLP, LLC,
a Tennessee limited liability company,
its Class B Limited Partner

By: _____
Kim Buche
Authorized Representative

SCHEDULE A
AMORTIZATION SCHEDULE

ALLONGE TO PROMISSORY NOTE

This Allonge is attached to, and by this reference made a part of, the Promissory Note dated [_____, 20__] (the “**Note**”) executed by ESPERO CHATTANOOGA LP, a Tennessee limited partnership as borrower under the Bond Financing Agreement, dated as of [_____, 20__] (the “**Financing Agreement**”), in favor of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, as issuer of the Note under the Financing Agreement (the “**Holder**”).

For value received, the Holder hereby endorses and transfers the Note as follows:

Pay to the order of Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation, without recourse or warranty, as Bondholder under the Financing Agreement.

This ___ day of _____, 20__.

THE HEALTH EDUCATIONAL AND HOUSING
FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE

By: _____
Name: [__]
Title: [__]

EXHIBIT B

FORM OF INVESTOR LETTER

_____, 20__

The Health, Educational and Housing Facility Board of the City of
Chattanooga, Tennessee
c/o Office of the Chattanooga City Attorney
100 E. 11th Street, Suite 200
Chattanooga, Tennessee 37402
Attention: Chair

Re: \$[____]
 The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee,
 Multifamily Housing Revenue Refunding Bonds
 (Espero Chattanooga Project) Series 20__

Ladies and Gentlemen:

The undersigned, in connection with its purchase of \$[BOND AMOUNT] The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee Multifamily Housing Revenue Refunding Bonds (Espero Chattanooga Project) Series 20__ (the “**Bonds**”) in accordance with this letter and the Bond Financing Agreement dated as of [____] (the “**Agreement**”) by and among The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the “**Issuer**”), Espero Chattanooga LP (the “**Borrower**”) and Cedar Rapids Bank and Trust Company, as the purchaser of the Bond (the “**Purchaser**”), executes and delivers this Investor Letter.

The undersigned represents the following:

1. The Purchaser is a person described in Section 4.7(c) of the Bond Financing Agreement.
2. The undersigned has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds.
3. The undersigned has made its own inquiry and analysis with respect to the Bonds and the security therefor, the project to be financed with proceeds of the Bonds, and other material factors affecting the security and payment of the Bonds, and it has not relied upon any statement by you, your officers, directors, partners, agents or employees, or your legal advisors or financial consultants in connection with such inquiry or analysis or in connection with the offer and sale of the Bonds.
4. The undersigned acknowledges that the Bonds are not and never will become general obligations of the Issuer, the State of Tennessee (the “**State**”), or any political subdivision of the State, but are special limited obligations of the Issuer payable solely from and secured by a pledge of the revenues described in the Agreement.

5. The undersigned has either been furnished with or has had access to all necessary information that it desires in order to enable it to make an informed investment decision concerning investment in the Bonds, and it has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Bonds and the security for the Bonds, so that it has been able to make an informed decision to purchase the Bonds.

6. The undersigned is purchasing the Bonds for its own account for investment and not with a view to, or for sale in connection with, any distribution of the Bonds or with any present intention of distributing or selling the Bonds, or any part thereof. The undersigned will only sell, transfer or otherwise dispose of all or any part of the Bonds in Authorized Denominations to a person described in Section 4.7(c) of the Bond Financing Agreement.

7. The undersigned is aware: that the Bonds have not been registered under federal or state securities laws; that the Issuer has determined that it is not under any obligation and does not intend to register the Bonds under federal or state securities laws; the Bonds will not be registered with the Depository Trust Company and will not have a CUSIP; that there is no public market for the Bonds; and that it is unlikely that such a market will ever develop.

Very truly yours,

CEDAR RAPIDS BANK AND TRUST COMPANY,
as Purchaser

By: _____
Name: _____
Title: _____

EXHIBIT C
SINKING FUND SCHEDULE
[INSERT]

45506920.5

FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT

between

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee

Dated as of

_____, 2024

pertaining to:

\$10,700,000

The Health, Educational and Housing Facility Board of
the City of Chattanooga, Tennessee
Collateralized Multifamily Housing Bonds
(Espero Chattanooga Project)
Series 2023

FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT

This FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT (this “Amendment”) dated as of _____ 1, 2024 is among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public nonprofit corporation and instrumentality of the State of Tennessee (the “Issuer”), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (together with any successor trustee under the Indenture as defined below and their respective successors and assigns, the “Trustee”), and ESPERO CHATTANOOGA LP, a Tennessee limited partnership (the “Borrower”).

WITNESSETH:

WHEREAS, the Issuer previously issued its \$10,700,000 Collateralized Multifamily Housing Bonds (Espero Chattanooga Project), Series 2023 (the “Bonds”), pursuant to that certain Trust Indenture (the “Original Indenture”), dated as of December 1, 2023, between the Issuer and the Trustee;

WHEREAS, the proceeds of the Bonds were loaned to the Borrower pursuant to that certain Loan Agreement dated as of December 1, 2023 between the Issuer and the Borrower (the “Original Loan Agreement”) to pay a portion of the cost of acquiring, construction and equipping a multifamily residential rental facility located in Chattanooga, Tennessee (the “Project”);

WHEREAS, in connection with the remarketing of the Bonds, the Borrower desires to make certain modifications to the Original Indenture and the Original Loan Agreement; and

WHEREAS, the Original Indenture provides that the Original Indenture and the Original Loan Agreement may be modified with the consent of the Issuer, the Holders of all of the Bonds, the Borrower, the Investor Limited Partner and the Trustee;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree that the Original Indenture and the Original Loan Agreement shall be amended as follows:

Section 1. Defined Terms. Capitalized terms used herein but not otherwise defined herein shall have the meanings given to them in the Original Indenture.

Section 2. Amendments to Indenture.

(a) The following defined terms shall be added to Section 1.01 of the Indenture:

“**Second Mandatory Tender Date**” means a date selected by Borrower with notice to the Holders and the Trustee, but not earlier than _____, 20__ [expected conversion date] and not later than _____, 20__ [forward commitment maturity date]. If no notice is provided by the Borrower, the “Second Mandatory Tender Date” means _____, 20__ [forward commitment maturity date].

(b) The term “Initial Mandatory Tender Date” shall be replaced with “Initial Mandatory Tender Date or Second Mandatory Tender Date” in the definition of Interest Payment Date in Section 1.01 of the Indenture.

(c) The following defined term in Section 1.01 of the Indenture shall be amended and restated as follows:

“**Mandatory Tender Date**” means (a) the Initial Mandatory Tender Date, (b) the Second Mandatory Tender Date and (b) the last day of each Remarketing Period.

(d) Within the defined term “Notice Address” in Section 1.01 of the Indenture, the address of the Investor Limited Partner shall be amended and restated as follows:

c/o RBC Community Investments, LLC
600 Superior Avenue, Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel

with a copy to:

Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett Applegate

(e) Within the defined term “Notice Address” in Section 1.01 of the Indenture, the address of the Lender shall be amended and restated as follows:

Cadence Bank
1049 Highland Colony Parkway
Ridgeland, Mississippi 39157
Attention: Jason Duren

Jones Walker LLP
420 North 20th Street, Suite 1100
Birmingham, Alabama 35203
Attention: Kelly B. Lewis and Brandon D. Hughey

(f) The first sentence of Section 6.02 of the Indenture shall be amended and restated as follows:

If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Borrower, the Lender, the Remarketing Agent and the Investor Limited Partner, within five days after the Trustee has notice of the Event of Default pursuant to Section 5.02(f) hereof.

(g) The last paragraph of Section 6.03 of the Indenture shall be amended and restated as follows:

The Investor Limited Partner and the Lender shall be entitled (but not obligated) to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner or the Lender 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.

(h) Section 7.04 of the Indenture shall be amended and restated as follows:

Section 7.04 Consent of Borrower, Lender and Investor Limited Partner.

Anything contained herein to the contrary notwithstanding, any Supplemental Indenture executed and delivered in accordance with this Article VII which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower, the Lender and the Investor Limited Partner shall have consented in writing to the execution and delivery of that Supplemental Indenture.

(i) Section 10.01 of the Indenture shall be amended and restated as follows:

Without the consent of or notice to the Holders, the Issuer, the Borrower, the Lender, the Investor Limited Partner and the Trustee may enter into or consent to, as applicable, any amendment, change or modification of the Loan Agreement, the Note or the Land Use Restriction Agreement, as may be required (a) by the provisions of the Note, the Loan Agreement, the Land Use Restriction Agreement or this Indenture, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note or the Land Use Restriction Agreement, or (c) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 7.02 hereof.

(j) Section 11.01 of the Indenture shall be amended and restated as follows:

With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Remarketing Agent, the Borrower, the Lender, the Investor Limited Partner and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Remarketing Agent, the Borrower, the Lender, the Investor Limited Partner and the Holders of the Bonds, as provided herein.

(k) The first four paragraphs of Section 11.03 of the Indenture shall be amended and restated as follows:

Except as provided in Section 6.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is in writing and duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Borrower, the Lender, the Investor Limited Partner, the Remarketing Agent and the Trustee shall be delivered to their respective Notice Address.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee, the Borrower, the Lender or the Investor Limited Partner to one or either of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Limited Partner, the Lender, the Remarketing Agent and the Rating Agency may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or Persons to whose attention the same shall be directed.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Borrower, the Lender, the Investor Limited Partner or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

Section 3. Amendments to Loan Agreement.

(a) The second sentence of Section 2.2(c) of the Loan Agreement is hereby amended and restated as follows:

The general partner of the Borrower is Espero GP 2, LLC, a Tennessee limited liability company (the "General Partner").

(b) Section 2.2(d) of the Loan Agreement is hereby amended and restated as follows:

(d) The General Partner (1) is a limited liability company, duly organized under the laws of the State of Tennessee, and (2) has the requisite legal authority to become and to act as the General Partner of the Borrower.

(c) The last paragraph of Section 5.2 of the Loan Agreement is hereby amended and restated as follows:

Notwithstanding anything to the contrary contained herein or in any other Borrower Document, the following shall be permitted and shall not require the prior written approval of the Issuer, the Lender or the Trustee: (a) the admission of tax credit investors designated by the Authorized Borrower Representative in accordance with the Indenture, as partners in the Borrower, which is expected to occur on the date of the closing of the Mortgage Loan, (b) the transfer by the Investor Limited Partner of its interest in the Borrower in accordance with the terms of the Borrower's Organizational Documents, (c) the removal of the General Partner or the class B Limited Partner in accordance with Borrower's Organizational Documents and the replacement thereof with the Investor Limited Partner or any of its affiliates, (d) the transfer of ownership interests in the Investor Limited Partner, the General Partner, the special limited partner of the Borrower or the class B limited partner of the Borrower, (e) the transfer of the general partner interest from Espero GP Corporation to Espero GP 2, LLC, (f) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner in the Borrower to the Borrower's general partner, class B limited partner or any of their affiliates (as may be permitted under the Borrower's Organizational Documents), (g) any amendment to the Organizational Documents to memorialize the admission of the Investor Limited Partner, or the transfers or removal described above and (h) transfers in connection with the PILOT Lease. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents

Section 4. Full Force and Effect. Except as expressly modified as stated above, all provisions of the Original Indenture and the Original Loan Agreement shall remain unaffected and in full force and effect and are hereby ratified and confirmed in all respects.

Section 5. Counterparts; Electronic Signature. This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. To the fullest extent permitted by applicable law, facsimile or electronically transmitted signatures shall constitute original signatures for all purposes hereunder and under the Original Indenture and the Original Loan Agreement.

Section 6. No Individual Liability. No covenant or agreement contained in this Amendment shall be deemed to be the covenant or agreement of any present, past or future member, agent, or employee of the Issuer or the Trustee, in his or her individual capacity, and neither the members of the Issuer or the Trustee, nor any official, agent or employee of the Issuer or the Trustee, shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of this Amendment.

Section 7. Severability. If any provisions of this Amendment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 8. Captions. The captions or headings in this Amendment are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Amendment.

Section 9. Governing Law. The laws of the State of Tennessee shall govern the construction and enforcement of this Amendment, without regard to conflict of laws principles.

Section 10. Effectiveness. This Amendment shall be effective as of the date of execution and delivery by the parties hereto and satisfaction of the conditions to amendment set forth in the Original Indenture.

Section 11. Successors and Assigns; Binding Effect. This Amendment shall inure to the benefit of, and shall be binding upon, the Issuer and the Trustee and their respective successors and assigns, and shall be binding on the holders from time to time of the Bonds who become holders of the Bonds on or after the effective date of this Amendment.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Trust Indenture and Loan Agreement to be executed on its behalf by its duly authorized representatives as of the date first above written.

ISSUER:

**THE HEALTH, EDUCATIONAL AND HOUSING
FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE**

By: _____

Name: _____

Title: _____

TRUSTEE:

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Name: _____
Title: _____

BORROWER:

ESPERO CHATTANOOGA LP,
a Tennessee limited partnership

By: Espero GP 2, LLC,
a Tennessee limited liability company,
its General Partner

By: _____
Anna Protano-Biggs
President

By: Espero SLP, LLC,
a Tennessee limited liability company,
its Class B Limited Partner

By: _____
Kim Buche
Authorized Representative

The Investor Limited Partner hereby consents to this Amendment.

INVESTOR LIMITED PARTNER:

RBC COMMUNITY INVESTMENTS, LLC

By: _____

Name: _____

Title: _____

45372436.3

RESOLUTION

A RESOLUTION RATIFYING THE ACTION TAKEN BY THE CHAIR AND SECRETARY FOR THE EXECUTION OF A JOINDER AND FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING REGARDING THE TWENTY MILLION DOLLAR (\$20,000,000.00) PROMISSORY NOTE RELATED TO THE TSO CHATTANOOGA DEVELOPMENT, LP, PAYMENT IN LIEU OF TAXES AGREEMENT WITH THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD.

NOW THEREFORE, BE IT RESOLVED BY THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, That it is hereby ratifying the action taken by the Chair and Secretary for the execution of a Joinder and First Amendment to Deed of Trust, Assignment, Security Agreement and Fixture Filing regarding the \$20 million promissory note related to the TSO Chattanooga Development, LP, Payment in Lieu of Taxes Agreement with the Health, Educational, and Housing Facility Board.

ADOPTED: September 16, 2024

THE HEALTH, EDUCATIONAL AND HOUSING
FACILITY BOARD FOR THE CITY OF
CHATTANOOGA, TENNESSEE

ATTEST:

Secretary

(HEB-2024-16)

This Instrument Prepared By:
Arnall Golden Gregory LLP
171 17th Street, N.W., Suite 2100
Atlanta, Georgia 30363-1031
Attn: Nick Passarello

MAXIMUM PRINCIPAL INDEBTEDNESS
FOR TENNESSEE RECORDING TAX
PURPOSES IS \$14,736,842.00.

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY
AGREEMENT AND FIXTURE FILING**

THIS INSTRUMENT IS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT WHICH IS BEING FILED AS A FIXTURE FILING IN ACCORDANCE WITH T.C.A. §47-9-502(c). TSO WAREHOUSE ROW PROPERTY OWNER, L.P., A TENNESSEE LIMITED PARTNERSHIP, IS THE RECORD OWNER OF THE REAL ESTATE. THE COLLATERAL IS DESCRIBED IN THIS INSTRUMENT AND SOME OF THE COLLATERAL DESCRIBED HEREIN IS OR IS TO BECOME FIXTURES ON THE REAL ESTATE DESCRIBED HEREIN. THE NAMES AND ADDRESSES OF THE DEBTOR(S) (“GRANTOR(S)” HEREIN) AND SECURED PARTY (“BENEFICIARY” HEREIN) ARE:

NAME AND ADDRESS OF DEBTOR(S)
TSO Chattanooga Development, LP
c/o the Simpson Organization, Inc.
1170 Peachtree Street, Suite 2000
Atlanta, Georgia 30309
Attention: A. Boyd Simpson

NAME AND ADDRESS OF SECURED PARTY
TRED IV, LLC
3060 Peachtree Rd. NW, Suite 1415
Atlanta, GA 30305
Attention: Michael Fallaize

This Deed of Trust is given for commercial purposes; and notice of this fact is given pursuant to T.C.A. §47-28-101 et. seq. This Instrument secures not only existing indebtedness or advances made contemporaneously with the execution hereof, but also future advances, whether obligatory, or optional, or both, to the same extent as if such future advances were made contemporaneously with the execution hereof.

THIS LEASEHOLD DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this, "**Deed of Trust**") is made and entered into at Atlanta, Georgia, as of the ____ day of _____, 2024, by and between **TSO CHATTANOOGA DEVELOPMENT, LP**, a Georgia limited partnership (herein called "**Grantor**"), in favor of **ALEXIS CANTRELL**, a Tennessee resident, having a principal office at 216 Centerview Drive, Suite 360, Brentwood, TN 37027, and her/his/its successors, successors-in-title and assigns as Trustee (herein called "**Trustee**"), for the use and benefit of **TRED IV, LLC**, a Delaware limited liability company (herein called "**Beneficiary**"), said term referring always to the lawful owner and holder of the indebtedness secured hereby), with the consent and joinder of **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE**, a public corporation created and existing under the laws of the State of Tennessee (the "**Authority**") as provided in the Joinder attached hereto and incorporated herein.

W I T N E S S E T H

WHEREAS, Grantor's affiliate TSO-DNL ACTIVE PROPERTY, LP, a Georgia limited partnership ("**Borrower**") is indebted to Beneficiary in the principal sum of FOURTEEN MILLION SEVEN HUNDRED THIRTY-SIX THOUSAND EIGHT HUNDRED FORTY-TWO AND NO/100 DOLLARS (\$14,736,842.00), together with interest thereon (the "**Loan**"), as evidenced by that certain Promissory Note of even date herewith (the "**Note**"), executed by Borrower and delivered to Beneficiary, the final payment of which is due on or before **September [REDACTED], 2026**, as provided in that certain Loan Agreement of even date herewith between Borrower, Grantor, certain of Borrower's other affiliates, and Beneficiary (the "**Loan Agreement**"), which by reference is made a part hereof to the same extent as though set out in full herein; any capitalized terms used by not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement;

WHEREAS, Grantor has guaranteed repayment of a portion of the Loan and Borrower's other obligations arising under the Loan Agreement, the Note, and the other Loan Documents pursuant to that certain Guaranty Agreement dated as of the date hereof by Grantor in favor of Beneficiary (the "**Guaranty**"); and

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid to Grantor and other good and valuable considerations, the receipt and legal sufficiency of all of which are hereby acknowledged, Grantor does by these presents grant, bargain, sell and convey unto Trustee and its successors in trust forever the following described real estate situated in Hamilton County, Tennessee (the "**Secured Obligations**");

(a) The full and prompt payment of obligations of Grantor to Beneficiary arising under the Guaranty;

(b) The full and prompt payment and performance of all of the provisions, agreements, covenants and obligations of Grantor herein contained and contained in the Loan Agreement, and all of documents and instruments heretofore or hereafter executed by Grantor in connection with the Loan (collectively, the "**Loan Documents**") and the payment of all other sums herein and therein covenanted to be paid; provided that this Deed of Trust does not secure the obligations and indebtedness arising under the Indemnity Agreement (as defined in the Loan Agreement);

(c) Any and all additional advances made by Beneficiary pursuant to this Deed of Trust or the other Loan Documents to protect or preserve the Property or the lien or security interest created hereby on the Property, or for taxes, assessments or insurance premiums as hereinafter provided or for performance

of any of Grantor's obligations hereunder (whether or not the original Grantor remains the owner of the Property at the time of such advances); and

(d) Payment and performance of all modifications, amendments, extensions, consolidations, and renewals, however evidenced, of any of the obligations described in (a) through (e) above;

Grantor does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, hypothecate, pledge, deliver, set over, warrant and confirm unto Trustee, its successors and assigns forever all right, title and interest of Grantor in and to:

THE PROPERTY

(A) THE LAND. All Grantor's leasehold estate, interest, rights, privileges and benefits (including, without limitation, any option to purchase the fee simple estate) existing under or created by that certain Lease Agreement dated October 20, 2015, by and between the Authority, as lessor, and Grantor, and recorded in Book GI 10594, Page 169, Hamilton County, Tennessee Register of Deeds (the "**PILOT Lease**"), as the same may be amended from time to time with the prior written consent of Beneficiary, covering and affecting those certain tracts, pieces or parcels of land (and any easements or other rights or interests in land) more particularly described in Exhibit "A", attached hereto and incorporated herein by reference (the "**Land**").

(B) THE IMPROVEMENTS. TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Grantor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements (the "**Improvements**").

(C) EASEMENTS OR OTHER INTERESTS. TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, now or hereafter in any way belonging, relating or appertaining to any of the Land or Improvements.

(D) ASSIGNMENTS OF RENTS. TOGETHER WITH, subject to the rights of tenants under any leases, all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A) , (B) and (C) hereof to be applied against the indebtedness and other sums secured hereby, provided, however, that permission is hereby given to Grantor so long as no Event of Default has occurred and is continuing hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, but not in advance thereof. The foregoing assignment shall be fully operative without any further action on the part of either party and specifically Beneficiary shall be entitled, at its option upon the occurrence and during the continuance of an Event of Default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof whether or not Beneficiary takes possession of the property described in paragraphs (A), (B) and (C) hereof, in all events subject to the terms and conditions of that certain Assignment of Leases and Rents from Grantor for the benefit of Beneficiary dated as of the date hereof (the "**ALR**"). Upon the occurrence and during the continuance of any such Event of Default hereunder, the permission hereby given to Grantor to collect such rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A) , (B) and (C) hereof shall terminate and such permission shall not be reinstated upon a cure of the default without Beneficiary's specific consent. Neither the exercise of any rights under this paragraph by Beneficiary nor the application of any such rents, royalties, issues, profits, revenue, income or other

benefits to the indebtedness and other sums secured hereby, shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

(E) ASSIGNMENT OF LEASES. TOGETHER WITH, subject to the rights of tenants under any leases, all right, title and interest of Grantor in and to any and all leases now or hereafter on or affecting the property described in paragraphs (A), (B) and (C) hereof, together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Grantor to collect the rentals under any such lease, in all events subject to the terms and conditions of the ALR. The foregoing assignment of any lease shall not be deemed to impose upon Beneficiary any of the obligations or duties of Grantor provided in any such lease, and Grantor agrees to perform all material obligations of the lessor under all such leases. Upon Beneficiary's request, Grantor agrees to send to Beneficiary a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Grantor shall so notify Beneficiary in order that at all times Beneficiary shall have a current list of all leases affecting the property described in paragraphs (A), (B) and (C) hereof. Beneficiary shall have the right, at any time and from time to time, to notify any lessee of the rights of Beneficiary as provided by this paragraph. From time to time, upon request of Beneficiary, Grantor shall specifically assign to Beneficiary as additional security hereunder, by an instrument in writing in such form as may be approved by Beneficiary, all right, title and interest of Grantor in and to any and all leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Grantor to collect the rentals under any such lease. Grantor shall also execute and deliver to Beneficiary any notification, financing statement or other document reasonably required by Beneficiary to perfect the foregoing assignment as to any such lease.

This instrument constitutes an absolute and present assignment of the rents, royalties, issues, profits, revenue, income and other benefits from the Property to Beneficiary, subject to the right of Grantor to collect, receive, take, use and enjoy the same as provided hereinabove and the license granted to Grantor pursuant to the ALR.

(F) FIXTURES AND PERSONAL PROPERTY. TOGETHER WITH a security interest in (i) all personal property and fixtures now owned or hereafter acquired by Grantor (but expressly excluding any fixtures belonging to tenants under any leases) and affixed to or located on the property described in paragraphs (A), (B) and (C) hereof which, to the fullest extent permitted by law shall be deemed fixtures and a part of the real property, (ii) all articles of personal property now owned or hereafter acquired and all materials delivered to the property described in paragraphs (A), (B) and (C) hereof (including such property for use in any construction being conducted thereon) and owned or leased by Grantor, including, but not limited to, all equipment, furniture, furnishings, inventory, apparatus, machinery, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to said Land and Improvements in any manner, (iii) all existing and future choses in action and claims of every nature whatsoever related to the Land or the Improvements, including without limitation claims related to design or construction defects or otherwise concerning the condition of the Land or the Improvements, claims arising from damage to the Land or the Improvements caused by the acts of third parties, and claims for injury to the operation of the Land or the Improvements or diminution of the revenues derived therefrom arising from the acts of third parties, (iv) all of Grantor's right, title and interest in and to the building and engineering plans and specifications, construction contracts, architect's contracts and other plans, drawings and contracts and all licenses and permits related to the past or future improvement of the Land, (v) all leases of personal property, accounts, contract rights, instruments, chattel paper, cash, rights to withdraw cash, general intangibles, actions and rights in action now or hereafter acquired

pertaining to the Property, including all rights to insurance proceeds, and (vi) all proceeds, products, replacements, additions, substitutions renewals and accessions of any of the foregoing. This Deed of Trust is a self-operative security agreement with respect to such property, but Grantor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Beneficiary may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. On demand, Grantor will promptly pay all costs and expenses of filing financing statements, continuation statements, partial releases, and termination statements deemed necessary or appropriate by Beneficiary to establish and maintain the validity and priority of the security interest of Beneficiary, or any modification thereof, and all costs and expenses of any searches reasonably required by Beneficiary. Beneficiary may exercise any or all of the remedies of a secured party available to it under the Uniform Commercial Code (Tennessee) (the “*UCC*”) with respect to such property, and it is expressly agreed in accordance with the provisions of the UCC, that ten (10) days’ notice by Beneficiary to Grantor shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that Beneficiary may at its option dispose of the collateral in accordance with Beneficiary’s rights and remedies in respect to the real property pursuant to the provisions of this Deed of Trust, in lieu of proceeding under the UCC.

Some of the items of property described herein are goods that are or are to become fixtures related to the real estate described herein, and it is intended that, as to those goods, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Land is located. Information concerning the security interest created by this instrument may be obtained from Beneficiary, as Secured Party, or Grantor, as Debtor, at the address first shown above.

Everything referred to in paragraphs (A) , (B) , (C) , (D) , (E) , and (F) hereof and any additional property hereafter acquired by Grantor and subject to the lien of this Deed of Trust or intended to be so is herein referred to as the “*Property*.”

TO HAVE AND TO HOLD the same to Trustee and Trustee’s successors, successors-in title, and assigns, in trust forever. Grantor covenants to and with Trustee and Beneficiary that it is lawfully seized and possessed in fee simple of the Property, has good right and lawful authority to transfer and convey the same, that the title thereto is free and clear of all taxes, liens and encumbrances whatsoever except for the Permitted Encumbrances (as defined in the Loan Agreement). Grantor further covenants and binds itself, its successors and assigns, to warrant and forever defend the title to the Property to Trustee, Trustee’s successors, successors-in-title, and assigns, for the benefit of Beneficiary, against the claims of all persons whomsoever. Beneficiary acknowledges and agrees that the Property will be leased to tenants and that Beneficiary shall have no interest in any tenant’s personal property, unless title to such personal property is transferred to Grantor and otherwise is described as part of the Property.

THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST, that if the Grantor shall pay the Loan and perform all of the other obligations under the Loan Documents in accordance with the terms of the Loan Documents, and any renewals, extensions or modifications thereof, and shall comply with all of the covenants, terms and conditions of the Loan Documents, then this conveyance shall be null and void and may be canceled of record thirty (30) days after the request of the Grantor, at the cost of Grantor, which cost Grantor hereby agrees to pay.

ARTICLE I.
COVENANTS OF THE GRANTOR

1.01 Payment of Secured Obligations. Grantor will perform, observe and comply with the provisions hereof, the Guaranty and its obligations under the Loan Agreement and duly and punctually will pay to Beneficiary all sums required to be paid by the Grantor pursuant to the provisions of the Guaranty or the Deed of Trust, all without any deduction or credit for taxes or other similar charges paid by the Grantor.

1.02 Incorporation by Reference. All the covenants, conditions, and agreements contained in the Loan Agreement and all of the other Loan Documents are hereby made a part of this Deed of Trust to the same extent and with the same force as if fully set forth herein.

1.03 Warranty of Title. Grantor is lawfully seized of an indefeasible leasehold estate in the Property hereby mortgaged and conveyed and, except to the extent set forth in any title policy issued to Beneficiary in connection with the Loan, has, subject to the Permitted Encumbrances, good and absolute title to all other Property in which a security interest is herein granted, and Grantor has good right, full power, and lawful authority to sell, convey, and grant a security interest in the same in the manner and form aforesaid. Except for the Permitted Encumbrances, the Property is free and clear of all liens, charges, and encumbrances whatsoever, including conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and Grantor shall and will warrant and forever defend the title thereto unto the Beneficiary, its successors and assigns, against the lawful claims of all persons whomsoever. Grantor shall not acquire any portion of the Property subject to any security interest, conditional sales contract, title retention arrangement, or other charge or lien taking precedence over the security interest and lien of this Deed of Trust.

1.04 Insurance and Casualty. The provisions of the Loan Agreement with respect to insurance and casualty, including, without limitation, Section 5.2 thereof, are incorporated herein by reference.

1.05 Condemnation. The provisions of the Loan Agreement with respect to condemnation, including, without limitation, Section 5.2 thereof, are incorporated herein by reference.

1.06 Care of the Property.

(a) Grantor shall preserve and maintain the Property in good condition and repair. Grantor shall not remove, demolish, materially alter or materially change the use of the Improvements without the prior written consent of the Beneficiary (such consent not to be unreasonably withheld, conditioned or delayed). Grantor shall not permit, commit or suffer any physical waste, impairment or deterioration of the Property or of any part thereof and will not take any action which will increase the risk of fire or other hazard to the Property or to any part thereof.

(b) Except as otherwise provided in this Deed of Trust, no fixture, personal property or other part of the Property necessary to the operation of the Property shall be removed, demolished or altered, without the prior written consent of the Beneficiary, except in the ordinary course of Grantor's business. Notwithstanding the foregoing, Grantor may sell or otherwise dispose of, free from the lien of this Deed of Trust, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable or obsolete only if they are replaced immediately with similar items of at least equal value which shall, without further action,

become subject to the lien of this Deed of Trust, except as otherwise provided in this Deed of Trust.

- (c) The Beneficiary may enter upon and inspect the Property at any reasonable time during the life of this Deed of Trust upon reasonable advance notice to Grantor and subject to the rights of tenants at the Property.
- (d) Grantor will promptly comply in all material respects with all applicable present and future laws, ordinances, rules and regulations of any governmental authority affecting the Property or any part thereof.
- (e) The terms of Section 5.2(e)–(g) of the Loan Agreement regarding notices of casualty or condemnation of the Property and application of insurance proceeds and awards resulting from the same are incorporated herein by reference as if fully set forth herein.

1.07 Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Beneficiary, Grantor will make, execute and deliver or cause to be made, executed and delivered, to Beneficiary, any and all other further instruments, certificates, and other documents as may, in the reasonable opinion of Beneficiary, be necessary or desirable to (i) perfect and protect the lien and security interest created or purported to be created hereby, (ii) enable Beneficiary to exercise and enforce any and all rights and remedies hereunder in respect of the Property, or (iii) effect otherwise the purposes of this Deed of Trust, including, without limitation, (A) executing and filing such financing or continuation statements, or amendments thereto, as may be necessary or desirable or that Beneficiary might request to perfect and preserve the security interest created by this Deed of Trust as a first and prior security interest upon and security title in and to all of the Property, whether now owned or here-after acquired by Grantor, (B) if certificates of title are now or hereafter issued or out-standing with respect to any of the Property, by immediately causing the interest of Beneficiary to be properly noted thereon at Grantor’s expense, and (C) furnishing to Beneficiary from time to time statements and schedules further identifying and describing the Property and such other reports in connection with the Property as Beneficiary might reasonably request, all in reasonable detail. If an Event of Default has occurred and is continuing, Beneficiary may make, execute, and record any and all such instruments, certificates, and documents for and in the name of Grantor, and Grantor hereby irrevocably appoints Beneficiary the agent and attorney in fact of Grantor so to do, which power of attorney is coupled with an interest and irrevocable. The lien and security interest hereof shall attach automatically without any further act or deed required of Grantor or Beneficiary to all after-acquired property of the kind described herein attached to or used in connection with the operation of the Property or any part thereof.

1.08 Estoppel Certificates. After request by Beneficiary, Grantor, within ten (10) business days, shall furnish Beneficiary or any proposed assignee with a statement, duly acknowledged and certified, setting forth (i) that, except as provided in such statement, there are no Defaults or Events of Default under the Guaranty Agreement or this Deed of Trust, (ii) whether any offsets or defenses exist against the Secured Obligations and, if any are alleged to exist, a detailed description thereof, and (iii) as to any other matters reasonably requested by Beneficiary and reasonably related to the Leases, the Secured Obligations, the Property or this Deed of Trust.

1.09 Replacement Documents. Upon receipt of an affidavit of an officer of Beneficiary as to the loss, theft, destruction or mutilation of any Loan Document to which Grantor which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document which is not of public record, Grantor will issue, in lieu thereof, a replacement note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

1.10 Subrogation. Beneficiary shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid by Beneficiary in order to protect or preserve the Property and the value thereof as security for Secured Obligations.

1.11 Limit of Validity. To the extent the fulfillment of any provision of this Deed of Trust at the time such provision is to be performed shall involve transcending the limit of validity presently prescribed by any applicable usury or similar law, the obligation to be fulfilled under such provision shall ipso facto be reduced to the limit of such validity.

1.12 Financing Statements. Beneficiary may file and refile such financing statements, continuation statements, or other documents as Beneficiary shall require from time to time with respect to the Property. Grantor agrees that the filing of financing statement(s) in the records normally having to do with the Collateral shall not in any way affect the agreement of Grantor that everything used in connection with the production of income from the Property or adapted for use therein or that is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the Land conveyed hereby. Grantor shall not, without Beneficiary's prior written approval, amend or terminate any financing statement filed by Beneficiary with respect to the Property or permit any other person to file a UCC financing statement described all or any portion of Property.

1.13 Hazardous Material. The representations, warranties, covenants, indemnities, terms and conditions of the Indemnity Agreement (as such term is defined in the Loan Agreement) are incorporated herein by reference as if fully set forth herein.

1.14 Transfer of Property. Notwithstanding anything to the contrary in this Deed of Trust and except for Permitted Transfers and Permitted Encumbrances, as such terms are defined in the Loan Agreement, or as otherwise permitted under the terms of the Loan Agreement, in the event that Grantor, without the prior written consent of Beneficiary, which consent may be denied or granted by Beneficiary in its sole discretion, sells, disposes, assigns, transfers, alienates, pledges, hypothecate, or encumbers in any manner or in any way, whether voluntary, involuntary, or by operation of law, the Property or any part thereof or any interest therein, Beneficiary may, at Beneficiary's option, declare all the Secured Obligations immediately due and payable and invoke any rights and remedies permitted by this Deed of Trust and the other Loan Documents. Lender will not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Secured Obligations immediately due and payable upon the occurrence of any transfer described without Beneficiary's prior written consent or as otherwise expressly permitted herein. This provision will apply to every such transfer regardless of whether voluntary or not, or whether or not Beneficiary has consented to any previous transfer, except for those expressly allowed herein. Any transfer made in contravention of this Section 1.14 shall be null and void and of no force and effect.

1.15 Intentionally Omitted.

1.16 Expenses. Grantor shall pay or reimburse Beneficiary for all expenses, including reasonable outside attorney's fees, actually incurred by Beneficiary in any action which is threatened, pending or completed or proceeding or in dispute in which Beneficiary is or might be made a party or appears as a party plaintiff or party defendant and which affects or might affect the Guaranty or the Property or any part thereof, or the interests of Grantor or Beneficiary therein, including but not limited to the foreclosure of this Deed of Trust, condemnation involving all or part of the Property or any action to protect the security hereof. All expenses so incurred by Beneficiary shall become due and payable immediately, whether or not there be notice, demand, attempt to collect or suit pending. The expenses so incurred or paid by Beneficiary, together with interest thereon at the Default Rate from the date incurred until paid by Grantor, shall be added to the indebtedness and secured by the lien of this Deed of Trust.

1.17 Beneficiary's Performance of Defaults. Upon the occurrence and during the continuance of an Event of Default, Beneficiary may at its option perform or observe any covenant under this Deed of Trust, the Loan Agreement or any other loan document which Grantor has failed to perform, and all expenses incurred by Beneficiary in connection therewith shall become due and payable immediately by Grantor. The expenses so incurred, together with interest thereon at the Default Rate from the date incurred until paid by Grantor, shall be added to the indebtedness and secured by the lien of this Deed of Trust. Nothing contained herein shall be construed as requiring Beneficiary to advance or expend monies for any purposes mentioned in this paragraph, or for any other purpose. Beneficiary is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or terms, without thereby becoming liable to Grantor or any person in possession holding under Grantor.

1.18 Use of Property. The Property shall be used by Grantor for the use which the Property is utilized for on the Closing Date (as defined in the Loan Agreement), which use shall not change without the prior written consent of Beneficiary.

1.19 PILOT Lease. Grantor hereby represents, warrants, and covenants as follows with respect to the PILOT Lease:

(a) Representations, Warranties and Covenants Regarding PILOT Lease. Grantor hereby represents, warrants, and covenants to and with Beneficiary that: (i) the PILOT Lease is in full force and effect in accordance with the terms thereof and has not been modified or amended; (ii) all of the rent, additional rent, and other charges payable under the PILOT Lease prior to the execution hereof have been paid in full; (iii) all of the terms, conditions and agreements contained in the PILOT Lease required to be performed on the part of Grantor prior to the date hereof have been performed, and no default exists under the PILOT Lease; (iv) Grantor has no knowledge of the occurrence of any event that, but for the passage of time or the giving of notice, or both, would constitute a default under the PILOT Lease that could lead to the termination thereof; (v) this Deed of Trust is lawfully executed and delivered in conformity with the PILOT Lease and is and will be kept a valid lien and security interest on the interest of Grantor therein; (vi) Grantor shall pay in accordance with the PILOT Lease the rentals, additional rental, and other charges payable under the PILOT Lease; (vii) Grantor will perform and observe in accordance with the PILOT Lease all of the terms, covenants and conditions required to be performed and observed by Grantor as lessee under the PILOT Lease, and Grantor will do all things necessary to preserve and keep unimpaired its rights under the PILOT Lease; (viii) Grantor will endeavor to enforce the obligations of the "Board" under the PILOT Lease to the end that Grantor may enjoy all of the rights granted to it as lessee under the PILOT Lease; (ix) Grantor will promptly deliver to Beneficiary a copy of any notice of default under the PILOT Lease; (x) Grantor will, from time to time within thirty (30) days after demand from Beneficiary, deliver to Beneficiary a certificate stating that the PILOT Lease is unmodified and in full force and effect and stating whether Grantor is in default in the performance of any covenants, agreements, or conditions contained in the PILOT Lease and, if so, specifying each such default; and (xi) Grantor will not, whether or not in accordance with the terms of the PILOT Lease, do or knowingly permit anything to be done, the doing of which, or refrain from doing anything to be done, the omission of which, will terminate or impair or tend to impair the security of this Deed of Trust or will be grounds for terminating the PILOT Lease or any option to purchase the fee simple estate contained therein, if any, or, declaring a forfeiture thereof (including, without limitation, the timely exercise of any renewal options contained in the PILOT Lease).

(b) Option to Cure Default. Upon receipt by Beneficiary of any written notice of default under the PILOT Lease, Beneficiary may rely thereon and take such action as Beneficiary deems necessary or desirable to cure such default even though the existence of such default or the nature thereof be questioned or denied by Grantor or by any other party. Grantor hereby expressly grants to Beneficiary, and agrees that Beneficiary shall have, the absolute and immediate right to enter in and upon the Land or any part thereof to such extent and as often as Beneficiary, in its sole but reasonable discretion, deems necessary or desirable to present or to cure

any such default. Beneficiary may, but shall not be obligated to, pay and expend such sums of money as Beneficiary in its sole but reasonable discretion deems necessary for any such purpose, and Grantor hereby agrees to pay such sums to Beneficiary, together with interest thereon from the date of each such payment at the default rate set forth in the Loan Agreement. All sums so paid by Beneficiary, and the interest thereon, shall be added to and become a part of the Indebtedness secured by this Deed of Trust.

(c) Grantor's Estate; No Merger. Anything herein contained to the contrary notwithstanding, it is agreed that the estate of Grantor created by the PILOT Lease and the fee simple estate to the Land will at all times remain separate and apart and retain their separate identities, and no merger of the estate of Grantor with the estate in fee of the fee owner will result with respect to Beneficiary or with respect to any purchaser acquiring the Land at any sale or foreclosure or any assignee in lieu of foreclosure of the estate encumbered by this Deed of Trust without the written consent of Beneficiary. In the event of the acquisition by Grantor at any time of the fee simple estate or any other estate or interest in the Land, or any part thereof, and at the option of Beneficiary, there shall be no merger of such estate or interest with the estate created and existing by virtue of the PILOT Lease, and the PILOT Lease shall remain in full force and effect in accordance with its terms as a separate and distinct estate in such real property; but, such estate or interest will immediately become subject to the lien, security title and security interest of this Deed of Trust, and Grantor shall promptly execute, acknowledge and deliver such appropriate instruments, if any, as Beneficiary shall request to ratify and confirm that the lien and security interests of this Deed of Trust in favor of Beneficiary automatically extend to, cover and affect such other estate or interests, and that each such instrument shall be in form and substance reasonably satisfactory to Beneficiary and its counsel.

(d) Subrogation. In the event Beneficiary elects to make any payments or to do any act or thing required to be paid or done by Grantor as lessee under the PILOT Lease pursuant to Section 1.19(b) of this Deed of Trust, Beneficiary shall, in addition to all other remedies of Beneficiary, herein be fully subrogated to any and all rights of Grantor as lessee under the terms and provisions of the PILOT Lease, arising from or relating to such payment or performance under the PILOT Lease.

(e) No Surrender or Modification. Without the express written consent of Beneficiary, Grantor will not surrender or subordinate the estate created by the PILOT Lease, terminate or cancel the PILOT Lease, or modify, change, supplement, alter or amend the PILOT Lease either orally or in writing. Any such termination, cancellation, modification, change, supplement, alteration or amendment of the PILOT Lease without the prior written consent of Beneficiary shall be void and of no force and effect. As further security to Beneficiary, upon Beneficiary's request, Grantor agrees to deposit with Beneficiary Grantor's originals of the PILOT Lease and all amendments thereto which Beneficiary shall have the right to retain until all the Indebtedness is fully paid and which shall automatically be and become the property of the purchaser of the Property if this Deed of Trust is non-judicially foreclosed or if the Land is conveyed by deed in lieu of foreclosure or similar transaction.

ARTICLE II.

EVENTS OF DEFAULT; REMEDIES

2.01. Events of Default. Subject to the provisions of the Loan Agreement, the occurrence and continuance of any one or more of the following events, whether voluntary, involuntary, or effected by operation of law, shall constitute an "*Event of Default*" under this Deed of Trust:

- (a) The occurrence and continuance of an Event of Default pursuant to, and as defined in, the Loan Agreement, the Guaranty, or any other Loan Document, including, without limitation, Grantor's failure to pay the Guaranteed Obligation as and when due under the Guaranty or

any other sum due thereunder on the due date thereof, which failure continues beyond any cure period and notice requirement set forth in the Loan Agreement or the Guaranty, as the case may be;

- (b) The default or failure of Grantor to properly and timely to comply with the terms and conditions of this Deed of Trust that is not cured within applicable cure periods set forth herein or, if no cure period is specified therefor, is not cured within thirty (30) days after notice is sent by Beneficiary to Grantor specifying such default; provided that if such failure cannot reasonably be cured within such thirty-day period, Beneficiary will not unreasonably withhold its consent to an extension of such cure period (not to exceed an additional sixty (60) days) so long as Grantor promptly commences and diligently pursues such cure and furnishes periodic reports to Beneficiary as to the status of the cure.

2.02. Remedies of Beneficiary Upon Default.

- (a) Acceleration; Remedies. NOW, IF ALL OF THE AFORESAID indebtedness be paid when due, and Grantor shall well and truly keep and perform all of the covenants, conditions and agreements herein contained, then this instrument shall be void and release or satisfaction thereof will be made at the expense of Grantor. BUT IF there shall be an Event of Default beyond applicable cure periods, Beneficiary is hereby authorized and empowered at its option, without notice unless otherwise provided in the Loan Documents, and without waiving the said Event of Default or affecting the lien hereby created, or the priority of said lien or any right of Beneficiary hereunder:

1. To apply any cash collateral or other funds held by Beneficiary for the account of Grantor to the indebtedness secured by this Deed of Trust in such manner as Beneficiary, in its sole discretion, may desire and perform any such defaulted covenant or agreement to such extent as Beneficiary shall determine; and, subject to the rights of tenants under any leases, enter upon the Property, inspect, repair and maintain the same and perform such other acts thereon as Beneficiary shall deem reasonably necessary to preserve the value of its interest in the Property, and advance such moneys as Beneficiary, in its sole discretion, shall deem advisable for any of the aforesaid purposes, and all moneys so advanced by Beneficiary, with interest thereon at the highest contractual rate permitted by law, shall become a part of the indebtedness secured hereby and be repaid promptly upon demand.

2. To declare, without notice, all sums secured hereby immediately due and payable, whether or not such default be remedied by Grantor or others and to enforce any of the rights which accrue to Beneficiary hereunder, and Trustee, or its agent, is authorized and empowered to enter and take possession of the Property, and before or after such entry, upon giving at least twenty (20) days' notice by at least three (3) weekly publications in any daily or weekly newspaper published in Hamilton County, Tennessee, and to advertise the sale of the Property for the time and in the manner as may otherwise be provided by the laws of Tennessee, and to sell the Property or any portion thereof at the option of Trustee, either on the Property or at the front door of the Hamilton County, Tennessee Courthouse or such place at which non-judicial foreclosure sales are usually made, at public outcry for cash to the highest and best bidder free from all rights and equities of redemption, the statutory right of redemption provided by any applicable Tennessee Statute including that afforded by T.C.A. §66-8-101, et seq., and any amendment or recodification of such statute, homestead, dower and all other exemptions and marital rights and shares, elective or distributable shares, any right of appraisal or valuation, and all other rights or exemptions of every kind, all of which are hereby expressly waived and conveyed by Grantor. Trustee is hereby empowered and authorized to execute and deliver a deed of conveyance to the purchaser conveying

such title as Trustee has and deliver quiet and peaceful possession to the purchaser, which shall be given without obstruction, hindrance or delay, and Grantor, in case of any sale under this Deed of Trust, or upon default in any interest or principal payment, or breach of any covenant contained herein, will, upon demand, surrender possession of the Property and will from that moment become and be tenants at will of the purchaser or of Beneficiary, or of Trustee for the use of Beneficiary, removable by process as upon a forcible and unlawful detainer and will pay the said purchaser, or Beneficiary or Trustee the reasonable rental value of the property from and after said sale or after such default or breach of covenant. Beneficiary may bid for and purchase the Property at any sale under this trust conveyance and shall be entitled to apply all or a portion of the indebtedness secured by this Deed of Trust as a credit to the purchase price. In accordance with T.C.A. §35-5-101, Trustee shall send to Trustor (and any co-debtor) on or before the date of the first publication of the notice of sale referenced above, a copy of the notice required in T.C.A. §35-5-104.

The Trustee is hereby authorized to divide, parcel and sell, and to retain and manage, all or any portion of the Property in such portions or parcels as Beneficiary may deem advisable in the Beneficiary's sole discretion. The sale or sales by Trustee of less than the whole of the Property shall not exhaust the power of sale granted herein, and Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Property shall be less than the aggregate of the indebtedness secured hereby; this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Property; provided however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Property, but Beneficiary shall have the right at its sole election, to request Trustee to sell less than the whole of the Property.

- (b) Purchaser at Sale. The owner of the indebtedness secured hereby may become the purchaser at any sale hereunder.
- (c) Sale Postponement; Agent. Said sale may be postponed or adjourned at any time and from time to time without re-advertising or any further publication, and the sale may be dismissed and not made, all at Beneficiary's option. Trustee, or any successor Trustee, is authorized to appoint an agent or auctioneer to make any sale hereunder, the cost of which shall be paid as a proper expense of Trustee, and any sale so made shall have the same validity as if made by Trustee; and a cash deposit or other security acceptable to Beneficiary may be required as a condition to the acceptance of bids.
- (d) Judicial Foreclosure; Appointment of Receiver; Deficiency. In addition to the power of sale above provided, Beneficiary shall have the right to proceed in a court of equity to foreclosure of this Deed of Trust and shall be entitled to judgment for the debt and any advances lawfully made by it under the provisions of this Deed of Trust. Beneficiary shall also be entitled to the appointment of a receiver to possess, hold and manage the Property, and to collect rents, issues and profits while such suit is pending and to judgment over for any difference between the amount paid for the Property either at a trustee's sale or at sale under order of the court and the total indebtedness accrued under the provisions of this instrument.
- (e) Maximum Interest. The provisions of this Deed of Trust and of all agreements between Grantor and Beneficiary, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity of the Note or otherwise, shall the amount paid, or agreed to be paid ("**Interest**") to Beneficiary for the use, forbearance or retention of the money loaned under the Note exceed the maximum amount permissible

under applicable law. If, from any circumstance whatsoever, performance or fulfillment of any provision hereof or of any agreement between Grantor and Beneficiary shall, at the time performance or fulfillment of such provision shall be due, exceed the limit for Interest prescribed by law or otherwise transcend the limit of validity prescribed by applicable law, then, ipso facto, the obligation to be performed or fulfilled shall be reduced to such limit, and if, from any circumstance whatsoever, Beneficiary shall ever receive anything of value deemed Interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive Interest shall be paid over to Grantor, and not to the payment of Interest. All Interest (including any amounts or payments deemed to be Interest) paid or agreed to be paid to Beneficiary shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal balance of the Note so that the Interest thereon for such full period will not exceed the maximum amount permitted by applicable law. This Section will control all agreements between Grantor and Beneficiary.

(f) Trustee.

1. Rights of Trustee. With the approval of Beneficiary, Trustee shall have the right to take any and all of the following actions: (A) to select, employ and consult with counsel (who may be, but need not be, counsel for Beneficiary) upon any matters arising hereunder, including the preparation, execution and interpretation of the Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (B) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his or her agents or attorneys, (C) to select and employ, in and about the execution of his or her duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee (and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith), and (D) any and all other lawful action that Beneficiary may instruct Trustee to take to protect or enforce Beneficiary's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation as provided in Section 2.02(f)(10) of this Deed of Trust. Grantor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and save and hold Trustee harmless against, any and all liability and expenses which may be incurred by Trustee in the performance of Trustee's duties.

2. Retention of Money. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, and shall be segregated from any other moneys of Trustee.

3. Successor Trustee. Beneficiary shall have the right, in its absolute discretion and without assigning any cause or reason whatsoever, and without giving notice to any of the parties named herein, the giving of notice being expressly waived by Grantor, to remove the Trustee named herein, or any successor Trustee at any time, and to appoint a successor trustee by written instrument executed by it, and such successor trustee shall become vested with the same title to the

Property and the same rights and powers and subject to the same duties as the Trustee named herein, without the necessity of any conveying instrument whatsoever, and each appointment of a successor trustee by Beneficiary shall be recorded in the Register's Office of the county in which the Property is located. Such recorded instrument shall constitute conclusive proof of the proper substitution and appointment of such successor trustee or trustees.

4. Perfection of Appointment. Should any deed, conveyance, or instrument of any nature be required from Grantor by any Trustee or substitute Trustee to more fully and certainly vest in and confirm to Trustee or substitute Trustee such estates, rights, powers, and duties, then, upon request by Trustee or substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Grantor.

5. Succession Instruments. Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its, his or her predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Beneficiary or of the substitute trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in such Trustee's place.

6. No Representation by Trustee or Beneficiary. By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Trustee or Beneficiary pursuant to the Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, neither Trustee nor Beneficiary shall be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee or Beneficiary.

7. Indemnity; Expenses. Grantor will pay or reimburse Trustee and Beneficiary for all reasonable outside attorneys' fees, costs and expenses actually incurred by either of them in any suit, action, legal proceeding or dispute of any kind in which either of them is made a party or appears as party plaintiff or defendant, affecting the Secured Obligations, this Deed of Trust or the interest created herein, or the Property, or any appeal thereof, including, but not limited to, activities related to enforcement of the remedies of Beneficiary, activities related to protection of Beneficiary's collateral, any foreclosure action or exercise of the power of sale, any condemnation action involving the Property or any action to protect the security hereof, any bankruptcy or other insolvency proceeding commenced by or against Grantor, and any such amounts paid or incurred by Trustee or Beneficiary shall be added to the Secured Obligations and shall be secured by this Deed of Trust. The agreements of this subsection shall expressly survive in perpetuity satisfaction of this Deed of Trust and repayment of the Secured Obligations, any release, reconveyance, discharge of foreclosure of this Deed of Trust, conveyance by deed in lieu of foreclosure, sale, and any subsequent transfer by trustee's conveyance of the Property.

8. Release of and Resort to Collateral. Beneficiary may release, regardless of consideration and without the necessity for any notice to a consent by the holder of any subordinate lien on the Property, any part of the Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by the

Loan Documents or their stature as a first and prior lien and security interest in and to the Property. For payment of the Indebtedness, Beneficiary may resort to any other security in such order and manner as Beneficiary may elect.

9. No Mortgagee in Possession. Neither the enforcement of any of the remedies under this Deed of Trust nor any other remedies afforded to Beneficiary under the Loan Documents, at law or in equity, shall cause Beneficiary or Trustee to be deemed or construed to be a mortgagee in possession of the Property, to obligate Beneficiary or Trustee to lease the Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

10. Trustee Compensation. Trustee is and shall be entitled to reasonable compensation, for all services rendered hereunder, or in connection with the trust herein created, which compensation in event of a Trustee's sale, as hereinafter provided, shall not be less than Fifty Dollars (\$50.00), and in addition Trustee shall be entitled to pay a reasonable sum for an examination of the title at the date of sale to assure himself as to what person is entitled to receive any surplus which may remain after discharging the liens hereby created. Trustee's compensation, together with any and all necessary and reasonable expenses, charges, outside attorney's fees, including but not limited to fees for legal advice concerning his rights and duties in the Property, and other disbursements incurred by Trustee in discharge of his duties as such, shall be a further charge and lien upon the Property and enforced in the same manner as the principal obligation due hereunder or under any Guaranty.

2.03. Release and Cancellation. Upon fulfillment of all of obligations, the performance of which is secured by this Deed of Trust, and upon payment of the Secured Obligations, this Deed of Trust shall be marked "Satisfied" and returned to Grantor, and this conveyance shall be null and void and shall be cancelled of record within thirty (30) days of the request of Grantor at the cost of Grantor, and title to the Property shall revert as provided by law.

2.04. UCC Remedies.

(a) This Deed of Trust is a "security agreement" within the meaning of the UCC. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Grantor in the Property. Grantor by executing and delivering this Deed of Trust has granted and hereby grants to Beneficiary, as security for the Secured Obligations, a security interest in the Property to the full extent that the Property may be subject to the UCC (said portion of the Property so subject to the UCC being referred to in this Deed of Trust as the "*Collateral*"). If an Event of Default occurs and is continuing, Beneficiary may exercise, in addition to all other rights and remedies granted to it in this Deed of Trust and in any other Loan Document, all rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, Beneficiary, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon Grantor or any other person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of Beneficiary or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any

credit risk. Beneficiary shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in Grantor, which right or equity is hereby waived or released. Grantor further agrees, at Beneficiary's request, to assemble the Collateral and make it available to Beneficiary at places which Beneficiary shall reasonably select, whether at Grantor's premises or elsewhere. If any notice of a proposed sale or other disposition of the Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition.

- (b) Grantor warrants that (i) Grantor's (that is, "**Debtor's**") name, identity, or corporate structure and residence or principal place of business are as set forth in subsection 2.04(c) below; (ii) Grantor (that is, "**Debtor**") has been using or operating under said name, identity or corporate structure without change for the time period set forth in subsection 2.04(c) below; and (iii) the location of the collateral is upon the Land. Grantor covenants and agrees that Grantor will furnish Beneficiary with notice of any change in the matters addressed by clauses (i) or (iii) of this subsection 2.13(b) within thirty (30) days of the effective date of any such change and Grantor will promptly execute any financing statements or other instruments deemed necessary by Beneficiary to prevent any filed financing statement from becoming misleading or losing its perfected status.
- (c) The information contained in this subsection 2.04(c) is provided in order that this Deed of Trust shall comply with the requirements of the UCC for instruments to be filed as financing statements. The names of the "Debtor" and the "Secured Party", the identity or corporate structure and residence or principal place of business of "Debtor" and the time period for which "Debtor" has been using or operating under said name and identity or corporate structure without change are as set forth in Schedule 1 of Exhibit B attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interest may be obtained and the mailing address of "Debtor" are as set forth in Schedule 2 of said Exhibit B attached hereto; and a statement indicating the types or describing the items of collateral is set forth hereinabove.

2.05. Delay or Omission No Waiver. No delay or omission of Beneficiary or of any holder of the Guaranty to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Beneficiary may be exercised from time to time and as often as may be deemed expedient by Beneficiary.

2.06. No Waiver of One Default to Affect Another. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If Beneficiary (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Guaranty, this Deed of Trust or any other instrument securing the Guaranty; (d) releases any part of the Property from the lien of this Deed of Trust or any other instrument securing the Guaranty; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Deed of Trust or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Guaranty, this Deed of Trust or otherwise of Grantor, or any subsequent purchaser of the mortgaged property or any part thereof or any maker, cosigner, endorser, surety or guarantor. No such act or omission shall preclude Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in case

of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by Beneficiary, shall the lien of this Deed of Trust be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Beneficiary, without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

2.07. Discontinuance of Proceedings; Position of Parties Restored. If Beneficiary or Trustee shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary, then and in every such case Grantor, Trustee, and Beneficiary shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and Trustee shall continue as if no such proceeding had occurred or had been taken.

2.08. Remedies Cumulative. No right, power or remedy conferred upon or reserved to Beneficiary by the Guaranty, this Deed of Trust or any other instrument securing the Guaranty is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Guaranty or any other instrument securing the Note, or now or hereafter available at law or in equity.

ARTICLE III.

MISCELLANEOUS PROVISIONS

3.01 Future Advances. Beneficiary shall make advances under the Note in accordance with the Loan Agreement. Beneficiary may also, at its option, make additional future advances to Grantor, provided, however, that nothing contained herein shall constitute an obligation to do so. Such future advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Deed of Trust when evidenced by the Note or by any other instrument indicating that such advances are secured by this Deed of Trust or when advanced under the terms of this Deed of Trust. Beneficiary may make such future advances (a) at the request of Grantor, whether or not there is any obligation to make future advances, or (b) upon the occurrence and during the continuance of an Event of Default to pay, with or without the consent or request of Grantor, any amounts which may be due under this Deed of Trust or under any other mortgage or lien affecting the Property.

3.02 Default Rate. The Default Rate shall be the rate of interest after default as provided in the Loan Agreement.

3.03 Intentionally omitted.

3.04 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience of reference only, are not to be considered a part hereof, and shall not limit or expand or otherwise affect any of the terms hereof.

3.05 Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions contained in the Guaranty, this Deed of Trust or any other instrument securing the

Guaranty shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note and any other instrument securing the Guaranty shall be in no way affected, prejudiced or disturbed thereby.

3.06 Changes, etc. Neither this Deed of Trust nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by Grantor and Beneficiary relating to this Deed of Trust shall be superior to the rights of the holder of any intervening lien or encumbrance.

3.07 Governing Law. This Deed of Trust is made by Grantor and accepted by Beneficiary in the State of Tennessee, with reference to the laws of such State, and shall be construed, interpreted, enforced and governed by and in accordance with such laws, notwithstanding the fact that the choice of law or conflicts of law principles of Tennessee would otherwise apply the laws of another jurisdiction.

3.08 Jurisdiction. Subject to the foregoing, Grantor submits to the jurisdiction of any court of competent jurisdiction within the State of Tennessee. Grantor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested, to Grantor at Grantor's address set forth above or any new address of which Beneficiary has been notified by Grantor in writing.

3.09 Document Protocols. This Deed of Trust is governed by the document protocols set forth in Article 9 of the Loan Agreement, which are specifically incorporated herein as if fully set forth herein.

3.10. Heirs, Successors and Assigns Included in Parties. Whenever one of the parties hereto is named or referred to herein, the heirs, successors and assigns of such party shall be included and all covenants and agreements contained in this Deed of Trust, by or on behalf of the Grantor, the Trustee or the Beneficiary, shall bind and inure to the benefit of their respective heirs, successors and assigns, whether so expressed or not. The death, disability or failure to act by the Trustee shall in no way limit or adversely affect the rights and interest of Beneficiary under the terms of this Deed of Trust. The Beneficiary, its successors, assigns or the holder of the Loan Agreement secured hereby, or any of them having a majority in interest therein, may at any time without notice to Grantor or Trustee, replace the Trustee named herein and appoint his successor by an instrument in writing recorded in the Register's Office for the county in which the Property is located, a copy of which shall thereafter be provided to Grantor. The appointment of the substitute Trustee shall be effective upon recording in the Register's Office and such shall, unless specifically limited therein, confer upon the Trustee so named, all of the rights, titles and powers granted herein and shall be subject to all of the same obligations and duties as if he were the original Trustee.

3.11 [Reserved].

3.12 Communications. Unless and except as otherwise specifically provided herein, any and all notices, elections, approvals, consents, demands, requests and responses thereto permitted or required to be given under the Loan Documents shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective if given in the manner stipulated in the Loan Agreement, and for purposes thereof and hereof, the Trustee's address is as follows:

Alexis Cantrell
c/o Stewart Title Company – Tennessee Division
216 Centerview Drive, Suite 360
Brentwood, TN 37027

3.13 Waiver of Appraisalment, Valuation, Etc. Grantor agrees, to the full extent permitted by law, that in the event of a default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under Grantor will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension, homestead, exemption, equitable redemption, or statutory redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Grantor, and all who may at any time claim through or under Grantor, hereby waives to the fullest extent that may be permitted under law, the benefit of all such laws. Without limiting the generality of the foregoing, this waiver is intended to include a waiver of the equity of redemption and the statutory right of redemption provided by any applicable Tennessee statute, including that afforded by T.C.A. §66-8-101 et seq. and is intended, among other things, to waive all rights of Grantor expressed therein.

3.14 Waiver of Homestead and Exemption Rights. Grantor hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Property as against the collection of the indebtedness secured by this Deed of Trust, or any part thereof.

3.15 Recourse Limitation. Grantor hereby acknowledges and agrees that the obligations evidenced by this Deed of Trust, the Loan Agreement and the other Loan Documents are, and are intended to be, recourse to Grantor; provided, however, Lender shall not enforce the liability and obligation of Grantor to perform and observe its obligations under this Loan Agreement and the other Loan Documents by any action or proceeding against any Non-Recourse Party (except to the extent set forth in a separate agreement given by any such Person in connection with the Loan, including the Guaranty and the Individual Guaranty). “**Non-Recourse Party**” means collectively, (a) any Person owning, directly or indirectly, any legal or beneficial interest in Grantor and (b) any direct or indirect partner, member, principal, officer, beneficiary, trustee, advisor, shareholder, employee, employee, agent, Affiliate or director of Grantor or any person described in clause (a).

3.16 Intercreditor. The obligations of Grantor under this Deed of Trust and the other Loan Documents are subject to those certain Subordination and Intercreditor Agreements of even date herewith by and between Beneficiary and SouthState Bank, N.A.

[Remainder of page left intentionally blank; Signatures on following page]

JOINDER

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee (hereinafter, singly and collectively referred to as the "**Authority**") as of September ____, 2024, hereby joins in this Deed of Trust for the purpose of granting to Trustee and Beneficiary a security title and lien in and to the Authority's fee interest in and to the Property, and the Authority's interest as ground lessor and landlord as such interest exists under the PILOT Lease. *Capitalized terms not otherwise defined hereunder shall have the meaning ascribed to such term within this Deed of Trust.*

1. General Provisions.

- a. The references to the "Property" in this Deed of Trust shall include, without limitation, the ownership interests of the Authority therein, and all other rights, privileges and interests relative thereto as set forth in this Deed of Trust.
- b. Exhibit "A" as referenced and described in this Deed of Trust shall mean and include all of the Authority's right, title and interest therein.

2. Granting Clause. In order to confirm and establish the grant to Trustee of the interest provided for herein, the Authority agrees and acknowledges that to secure the prompt payment and performance of the Secured Obligations, the Authority does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, deliver, set over, warrant and confirm unto Trustee, its successors and assigns, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit of Beneficiary, its successors and assigns, all of the Authority's fee interest in and to the Property, and the Authority's interest as ground lessor and landlord as such interest exists under the PILOT Lease, as if the Authority had originally granted and executed this Deed of Trust as a "grantor" thereunder.

3. Rights and Remedies. The Authority acknowledges and agrees upon the occurrence of an Event of Default, the rights and remedies available to Beneficiary and Trustee shall apply to the interest of the Authority in and to the Property and the PILOT Lease.

4. PILOT Lease Representations, Warranties and Covenants. The Authority represents and warrants with respect to the PILOT Lease that:

- a. The PILOT Lease is currently in full force and effect;
- b. The PILOT Lease has not been modified or amended, and there are no side letters or other arrangements relating to the Property;
- c. To the best of the Authority's knowledge, the PILOT Lease is not in default, nor has any event occurred which is, or solely with the passage of time would be, an event of default under the PILOT Lease;
- d. To the best of the Authority's knowledge, the rent under the PILOT Lease has been paid to the Authority through the date hereof and no additional rent is presently due under the PILOT Lease;
- e. The Authority shall promptly notify Beneficiary in writing of any default by Grantor in the performance or observance of any of the terms, covenants or conditions on the part of Grantor to be performed or observed under the PILOT Lease and shall provide Beneficiary with a reasonable period to cure such failure by Grantor;

- f. The Authority recognizes the rights of Trustee and Beneficiary, their successors, assigns and transferees, in and to the PILOT Lease and consents to the exercise by Trustee and Beneficiary of their respective rights under this Deed of Trust upon the occurrence of a Event of Default;
 - g. Beneficiary may assign or sell its rights in and to the PILOT Lease in accordance with Article IX of the PILOT Lease;
 - h. The Authority agrees to recognize Beneficiary and/or any successors, assignees or transferees of Beneficiary's or Grantor's interest in and to the PILOT Lease upon notice given to the Authority by Beneficiary or such successor, assignee or transferee of their interest in and to the PILOT Lease and the Property as provided in Sections 9.01 and 9.03 of the PILOT Lease;
 - i. Except as otherwise provided in the PILOT Lease, the Authority shall not enter into or agree to any modifications, extensions, or renewals of the PILOT Lease, or terminate or surrender the PILOT Lease, without the prior written consent of Beneficiary;
 - j. If the PILOT Lease shall be terminated for any reason, the Authority shall, upon the request of Beneficiary, execute a new lease with Beneficiary or its designee, subject to and in accordance with the terms and provisions of the PILOT Lease;
 - k. Beneficiary, and its successors and assigns, shall not become liable for the obligations of Grantor under the PILOT Lease until such time as Beneficiary has acquired title to Grantor's interest under the PILOT Lease as a result of any trustee sale or foreclosure or similar liquidation proceeding (without having exercised its rights in respect of the Authority's interest in the PILOT Lease or the Property), in which event any such liabilities shall be with recourse only to the interest so acquired;
 - l. The conditions to executing this Joinder as set forth in the PILOT Lease have been unconditionally satisfied as of the date hereof and shall be deemed satisfied at all times that the Secured Obligations is outstanding, as such may be modified, amended, consolidated or extended from time to time.
5. Collateral. The Authority hereby consents and agrees that Beneficiary may at any time, and from time to time, without thereby releasing the Authority from any liability hereunder and without notice to or further consent from the Authority, either with or without consideration: release or surrender any lien or other security of any kind or nature whatsoever held by it or by any person, firm or corporation on its behalf or for its account, securing any Secured Obligations hereby secured; substitute for any collateral so held by it, other collateral of like kind, or of any kind; modify the terms of the Loan Documents; grant releases, compromises and indulgences with respect to the Loan Documents and to any persons or entities now or hereafter liable thereunder or hereunder; release any obligor, surety, endorser or accommodation party of any of the Loan Documents; or take or fail to take any action of any type whatsoever. The provisions of this Deed of Trust and this Joinder shall extend and be applicable to all renewals, amendments, extensions, consolidations, restatements and modifications of the Secured Obligations and the Loan Documents, and any and all references herein to the Secured Obligations and the Loan Documents shall be deemed to include any such renewals, extensions, amendments, consolidations, restatements or modifications thereof.
6. Modifications. Without limiting the generality of the foregoing, the Authority hereby consents to any amendment by Grantor and Beneficiary to this Deed of Trust or any other Loan Documents and agrees that any such amendment may be effectuated without notice to or consent from the Authority, and that the provisions of this Deed of Trust and this Joinder shall extend and be applicable to all such amendments and modifications of this Deed of Trust.

7. Interpretation. This Joinder and this Deed of Trust shall be interpreted as one single instrument and document.
8. Notice. All notices under this Joinder shall be delivered, and the time of delivery determined, in accordance with the terms and provisions of Section 3.12 of this Deed of Trust, addressed as follows:

If to the Authority:

The Health, Educational and Housing Facility
Board of The City of Chattanooga, Tennessee
c/o Phillip A. Noblett, Esq.
Deputy City Attorney
Chattanooga City Attorney's Office
Suite 200
100 E 11 th Street
Chattanooga, TN 37402

If to Beneficiary:

TRED IV LLC
c/o Tioga Capital, LLC
3060 Peachtree Rd. NW, Suite 1415
Atlanta, GA 30305
Attention: Michael Fallaize

with a copy to:

Arnall Golden Gregory LLP
171 17th Street NW, Suite 2100
Atlanta, GA 30363
Attn: Nick Passarello

Any such addressee may change its address for such notices to such other address in the United States as such addressee shall have specified by written notice given as set forth above.

9. Limitation of Liability. The Authority has executed this Joinder solely for the purpose of pledging its interest in the Property to the lien and security title created hereunder. In no event whatsoever shall the Authority have any liability for the payment of any indebtedness under the Note or any interest that may accrue thereon, or under any of the other Loan Documents, or for any other Secured Obligation. In the event that any Event Default shall occur hereunder, Beneficiary's sole claim against the Authority shall be against the Authority's interest in the Property and the Authority shall have no liability for any deficiency, it being understood and agreed that the loan evidenced by the Note and other Loan Documents is to Grantor and not the Authority. Nothing contained in this paragraph shall be construed in any way so as to affect or impair the lien and security title created hereunder or Beneficiary's right to the foreclosure thereof, or construed in any way so as to limit or restrict any of the rights or remedies of Beneficiary in any such foreclosure proceedings or other enforcement of the payment of the Indebtedness out of and from the security given therefore in the manner provided herein, or construed in any way so as to limit or restrict any rights and remedies of Beneficiary under any other document or instrument evidencing, securing, or guarantying the Indebtedness. Any liability of the Authority is expressly non-recourse to the Authority beyond its interest in the Project, and all Authority Board members are recognized to have individual immunity from any liability under this Joinder.
10. Successors and Assigns. This Joinder is binding on the Authority and its successors and assigns, may be relied upon and shall inure to the benefit of, Beneficiary, its successors and assigns, and may be recorded in any land records pertaining to the Property.

IN WITNESS WHEREOF, the Authority has executed and sealed this Joinder as of the date first written on page 1 hereof.

AUTHORITY

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee

By: _____
Name: Hicks Armor
Title: Chair

By: _____
Name: Richard Johnson
Title: Secretary

STATE OF TENNESSEE

COUNTY OF HAMILTON

Acknowledgment

Before me, Maria Manalla, Notary Public, of the state and county aforesaid, personally appeared Hicks Armor and Richard Johnson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Chair and Secretary, respectively, of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee, the within named bargainer, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the Authority as such officers.

Witness my hand and seal this ____ day of _____, 2024.

Notary Public

(SEAL)

My Commission Expires: _____

EXHIBIT "A"

Legal Description

See attached.

EXHIBIT B

DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

SCHEDULE 1

(Description of "Debtor" and "Secured Party")

A. Debtor:

- i. The name and identity of the Debtor is TSO CHATTANOOGA DEVELOPMENT, LP, a Georgia limited partnership.
- ii. The address of the Debtor 1170 Peachtree Street, Suite 2000, Atlanta, Georgia 30309.
- iii. The Debtor has been operating under said name and identity for the period commencing on September 16, 2014 through the date hereof.

B. Secured Party: The name of the Secured Party is TRED IV, LLC, a Delaware limited liability company.

SCHEDULE 2

(Notice Mailing Addresses of "Debtor" and "Secured Party")

- A. The mailing address of the Debtor is 1170 Peachtree Street, Suite 2000, Atlanta, Georgia 30309, Attn: Boyd Simpson, with a copy to Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia 30309, Attention: Jason Howard.
- B. The mailing address of the Secured Party is TRED IV LLC, c/o Tioga Capital, LLC, 3060 Peachtree Rd. NW, Suite 1415 Atlanta, GA 30305 Attention: Michael Fallaize, with a copy to Arnall Golden Gregory LLP, 171 17th Street, NW, Suite 2100, Atlanta, GA 30363, Attn: Nick Passarello.

JOINDER

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee (hereinafter, singly and collectively referred to as the "**Authority**") as of September __, 2024, hereby joins in this Deed of Trust for the purpose of granting to Trustee and Beneficiary a security title and lien in and to the Authority's fee interest in and to the Property, and the Authority's interest as ground lessor and landlord as such interest exists under the PILOT Lease. *Capitalized terms not otherwise defined hereunder shall have the meaning ascribed to such term within this Deed of Trust.*

1. General Provisions.

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- b. Exhibit "A" as referenced and described in this Deed of Trust shall mean and include all of the Authority's right, title and interest therein.

2. Granting Clause. In order to confirm and establish the grant to Trustee of the interest provided for herein, the Authority agrees and acknowledges that to secure the prompt payment and performance of the Secured Obligations, the Authority does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, deliver, set over, warrant and confirm unto Trustee, its successors and assigns, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, for the benefit of Beneficiary, its successors and assigns, all of the Authority's fee interest in and to the Property, and the Authority's interest as ground lessor and landlord as such interest exists under the PILOT Lease, as if the Authority had originally granted and executed this Deed of Trust as a "grantor" thereunder.

3. Rights and Remedies. The Authority acknowledges and agrees upon the occurrence of an Event of Default, the rights and remedies available to Beneficiary and Trustee shall apply to the interest of the Authority in and to the Property and the PILOT Lease.

4. PILOT Lease Representations, Warranties and Covenants. The Authority represents and warrants with respect to the PILOT Lease that:

- a. The PILOT Lease is currently in full force and effect;
- b. The PILOT Lease has not been modified or amended, and there are no side letters or other arrangements relating to the Property;
- c. To the best of the Authority's knowledge, the PILOT Lease is not in default, nor has any event occurred which is, or solely with the passage of time would be, an event of default under the PILOT Lease;
- d. To the best of the Authority's knowledge, the rent under the PILOT Lease has been paid to the Authority through the date hereof and no additional rent is presently due under the PILOT Lease;
- e. The Authority shall promptly notify Beneficiary in writing of any default by Grantor in the performance or observance of any of the terms, covenants or conditions on the part of Grantor to be performed or observed under the PILOT Lease and shall provide Beneficiary with a reasonable period to cure such failure by Grantor;

- f. The Authority recognizes the rights of Trustee and Beneficiary, their successors, assigns and transferees, in and to the PILOT Lease and consents to the exercise by Trustee and Beneficiary of their respective rights under this Deed of Trust upon the occurrence of a Event of Default;
 - g. Beneficiary may assign or sell its rights in and to the PILOT Lease in accordance with Article IX of the PILOT Lease;
 - h. The Authority agrees to recognize Beneficiary and/or any successors, assignees or transferees of Beneficiary's or Grantor's interest in and to the PILOT Lease upon notice given to the Authority by Beneficiary or such successor, assignee or transferee of their interest in and to the PILOT Lease and the Property as provided in Sections 9.01 and 9.03 of the PILOT Lease;
 - i. Except as otherwise provided in the PILOT Lease, the Authority shall not enter into or agree to any modifications, extensions, or renewals of the PILOT Lease, or terminate or surrender the PILOT Lease, without the prior written consent of Beneficiary;
 - j. If the PILOT Lease shall be terminated for any reason, the Authority shall, upon the request of Beneficiary, execute a new lease with Beneficiary or its designee, subject to and in accordance with the terms and provisions of the PILOT Lease;
 - k. Beneficiary, and its successors and assigns, shall not become liable for the obligations of Grantor under the PILOT Lease until such time as Beneficiary has acquired title to Grantor's interest under the PILOT Lease as a result of any trustee sale or foreclosure or similar liquidation proceeding (without having exercised its rights in respect of the Authority's interest in the PILOT Lease or the Property), in which event any such liabilities shall be with recourse only to the interest so acquired;
 - l. The conditions to executing this Joinder as set forth in the PILOT Lease have been unconditionally satisfied as of the date hereof and shall be deemed satisfied at all times that the Secured Obligations is outstanding, as such may be modified, amended, consolidated or extended from time to time.
5. Collateral. The Authority hereby consents and agrees that Beneficiary may at any time, and from time to time, without thereby releasing the Authority from any liability hereunder and without notice to or further consent from the Authority, either with or without consideration: release or surrender any lien or other security of any kind or nature whatsoever held by it or by any person, firm or corporation on its behalf or for its account, securing any Secured Obligations hereby secured; substitute for any collateral so held by it, other collateral of like kind, or of any kind; modify the terms of the Loan Documents; grant releases, compromises and indulgences with respect to the Loan Documents and to any persons or entities now or hereafter liable thereunder or hereunder; release any obligor, surety, endorser or accommodation party of any of the Loan Documents; or take or fail to take any action of any type whatsoever. The provisions of this Deed of Trust and this Joinder shall extend and be applicable to all renewals, amendments, extensions, consolidations, restatements and modifications of the Secured Obligations and the Loan Documents, and any and all references herein to the Secured Obligations and the Loan Documents shall be deemed to include any such renewals, extensions, amendments, consolidations, restatements or modifications thereof.
6. Modifications. Without limiting the generality of the foregoing, the Authority hereby consents to any amendment by Grantor and Beneficiary to this Deed of Trust or any other Loan Documents and agrees that any such amendment may be effectuated without notice to or consent from the Authority, and that the provisions of this Deed of Trust and this Joinder shall extend and be applicable to all such amendments and modifications of this Deed of Trust.

7. Interpretation. This Joinder and this Deed of Trust shall be interpreted as one single instrument and document.
8. Notice. All notices under this Joinder shall be delivered, and the time of delivery determined, in accordance with the terms and provisions of Section 3.12 of this Deed of Trust, addressed as follows:

If to the Authority:

The Health, Educational and Housing Facility
Board of The City of Chattanooga, Tennessee
c/o Phillip A. Noblett, Esq.
City Attorney
Chattanooga City Attorney's Office
Suite 200
100 E. 11th Street
Chattanooga, TN 37402

If to Beneficiary:

TRED IV LLC
c/o Tioga Capital, LLC
3060 Peachtree Rd. NW, Suite 1415
Atlanta, GA 30305
Attention: Michael Fallaize

with a copy to:

Arnall Golden Gregory LLP
171 17th Street NW, Suite 2100
Atlanta, GA 30363
Attn: Nick Passarello

Any such addressee may change its address for such notices to such other address in the United States as such addressee shall have specified by written notice given as set forth above.

9. Limitation of Liability. The Authority has executed this Joinder solely for the purpose of pledging its interest in the Property to the lien and security title created hereunder. In no event whatsoever shall the Authority have any liability for the payment of any indebtedness under the Note or any interest that may accrue thereon, or under any of the other Loan Documents, or for any other Secured Obligation. In the event that any Event Default shall occur hereunder, Beneficiary's sole claim against the Authority shall be against the Authority's interest in the Property and the Authority shall have no liability for any deficiency, it being understood and agreed that the loan evidenced by the Note and other Loan Documents is to Grantor and not the Authority. Nothing contained in this paragraph shall be construed in any way so as to affect or impair the lien and security title created hereunder or Beneficiary's right to the foreclosure thereof, or construed in any way so as to limit or restrict any of the rights or remedies of Beneficiary in any such foreclosure proceedings or other enforcement of the payment of the Indebtedness out of and from the security given therefore in the manner provided herein, or construed in any way so as to limit or restrict any rights and remedies of Beneficiary under any other document or instrument evidencing, securing, or guarantying the Indebtedness. Any liability of the Authority is expressly non-recourse to the Authority beyond its interest in the Project, and all Authority Board members are recognized to have individual immunity from any liability under this Joinder.
10. Successors and Assigns. This Joinder is binding on the Authority and its successors and assigns, may be relied upon and shall inure to the benefit of, Beneficiary, its successors and assigns, and may be recorded in any land records pertaining to the Property.

IN WITNESS WHEREOF, the Authority has executed and sealed this Joinder as of the date first written on page 1 hereof.

AUTHORITY

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee

By: *Hicks Armor*
Name: Hicks Armor
Title: Chair

By: *Richard Johnson*
Name: Richard Johnson
Title: Secretary

STATE OF TENNESSEE

COUNTY OF HAMILTON

Acknowledgment

Before me, Maria Manalla, Notary Public, of the state and county aforesaid, personally appeared Hicks Armor and Richard Johnson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Chair and Secretary, respectively, of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee, the within named bargainer, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the Authority as such officers.

Witness my hand and seal this *16th* day of *September*, 2024.

Maria Manalla
Notary Public

(SEAL)

My Commission Expires: *4/28/26*



EXHIBIT "A"

Legal Description

See attached.

EXHIBIT B

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

SCHEDULE 1

(Description of "Debtor" and "Secured Party")

A. Debtor:

- i. The name and identity of the Debtor is TSO CHATTANOOGA DEVELOPMENT, LP, a Georgia limited partnership.
- ii. The address of the Debtor 1170 Peachtree Street, Suite 2000, Atlanta, Georgia 30309.
- iii. The Debtor has been operating under said name and identity for the period commencing on September 16, 2014 through the date hereof.

B. Secured Party: The name of the Secured Party is TRED IV, LLC, a Delaware limited liability company.

SCHEDULE 2

(Notice Mailing Addresses of "Debtor" and "Secured Party")

- A. The mailing address of the Debtor is 1170 Peachtree Street, Suite 2000, Atlanta, Georgia 30309, Attn: Boyd Simpson, with a copy to Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia 30309, Attention: Jason Howard.
- B. The mailing address of the Secured Party is TRED IV LLC, c/o Tioga Capital, LLC, 3060 Peachtree Rd. NW, Suite 1415 Atlanta, GA 30305 Attention: Michael Fallaize, with a copy to Arnall Golden Gregory LLP, 171 17th Street, NW, Suite 2100, Atlanta, GA 30363, Attn: Nick Passarello.

After recording return to:

David J. Burge, Esq.
Smith, Gambrell & Russell, LLP
1105 W Peachtree Street, NE, Suite 1000
Atlanta, Georgia 30309

CROSS REFERENCE:
GI Book 12921, Page 397,
Register's Office for Hamilton
County, Tennessee.

MAXIMUM PRINCIPAL INDEBTEDNESS
FOR TENNESSEE RECORDING TAX PURPOSES
IS \$ __.00

**FIRST AMENDMENT TO DEED OF TRUST,
ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING**

THIS FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING, made and entered into this __ day of September 2024, by and between TSO CHATTANOOGA DEVELOPMENT, LP, a Georgia limited partnership (“Borrower”) and SOUTHSTATE BANK, N.A., successor to ATLANTIC CAPITAL BANK, N.A. (“Lender”); with the consent and joinder of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee (the “Authority”) as provided in the Joinder attached to the Deed of Trust and incorporated herein;

W I T N E S S E T H:

WHEREAS, Lender made to Borrower a loan in the original principal face amount of \$20,000,000.00 (the “Loan”) pursuant to the terms and conditions of that certain Promissory Note, dated December 29, 2021 (“Note”) in the original principal face amount of \$20,000,000.00, which Loan and Note are secured, *inter alia*, by that certain Deed of Trust, Assignment, Security Agreement and Fixture Filing from Borrower to the Trustee named therein for the benefit of Lender, dated December 29, 2021, and recorded in GI Book 12921, Page 397, Register's Office for Hamilton County, Tennessee (the “Deed of Trust”);

WHEREAS, Borrower and Lender desire to amend the Deed of Trust as provided herein;

NOW, THEREFORE, for and in consideration of the premises set forth above, and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. Definitions. Except as expressly provided to the contrary herein, all defined terms in the Deed of Trust have the same meaning when used herein.
2. Maturity Date. Pursuant to a First Amendment to Promissory Note, dated of even date herewith, the Maturity Date of the Note is extended to June 30, 2027.
3. Modification of Deed of Trust. The following provision is added as Stipulation D-3 to the Deed of Trust:

D-3 Cross-Default and Cross-Collateralization Provisions.

(a) Lender has made a loan (the "1110 Market Loan") to TSO Warehouse Row Property Owner, L.P., a Tennessee limited partnership ("1110 Market"), in the original principal amount of \$24,500,000.00, as evidenced by (i) that certain Promissory Note, dated June 29, 2021, made by 1110 Market to the order of Lender in the original principal face amount of \$24,500,000.00, as amended by that certain First Amendment to Promissory, dated of even date herewith (as so amended, the "1110 Market Note"), and (ii) that certain Loan Agreement, dated June 29, 2021, made by and between 1110 Market and Lender, as amended by that certain First Amendment to Loan Agreement, dated of even date herewith (as so amended, the "1110 Market Loan Agreement"). The 1110 Market Loan is secured, inter alia, by that certain Deed of Trust, Assignment, Security Agreement and Fixture Filing, dated June 29, 2021, made by 1110 Market to the Trustee named therein for the benefit of Lender, as amended by that certain First Amendment to Deed of Trust, Assignment, Security Agreement and Fixture Filing, dated of even date herewith (as so amended, the "1110 Market Deed of Trust"). Any "Default" as defined in the 1110 Market Deed of Trust that is not cured within any applicable notice and cure period shall, at Lender's election, be a Default hereunder. Further, a Default hereunder shall, at the election of Lender, also constitute a "Default" as such term is defined in and under the 1110 Market Deed of Trust and any other loan documents executed in connection with the 1110 Market Loan.

(b) The real property described in the 1110 Market Deed of Trust (the "1110 Market Secured Property") is and shall be security for the Note, or any advance made thereunder, or any renewal or extension thereof; further, the Premises described herein is and shall be security for the 1110 Market Note. The 1110 Market Loan and the other obligations under the 1110 Market Note and 1110 Market Loan Agreement shall constitute part of the "Indebtedness" under this Instrument.

(c) Nothing contained herein shall in any way impair the rights of the Lender granted in the Deed of Trust. Further, each and every note and deed of trust executed in connection with any loan made from Lender to Borrower or 1110 Market is and shall remain a separate obligation of Borrower and 1110 Market, respectively, and each and every note and deed of trust is and shall be separately enforceable according to such

document's respective terms until all outstanding indebtedness owing from Borrower or 1110 Market, respectively, to Lender has been paid in full; further, if any Default shall exist, Lender may, at its election, institute separate or collective proceedings with respect to each such note and deed of trust simultaneously or in such order and at such times as Lender may elect. The pendency of any proceeding with respect to any such note and deed of trust shall not be grounds for abatement of or for hindering, delaying or preventing any proceeding with respect to any other note and deed of trust. A Default under each such note and deed of trust shall constitute a separate cause of action, and the institution of proceedings upon one but not another shall not be construed as a splitting of a cause of action by Lender.

(d) Borrower acknowledges that the amendment of the 1110 Market Loan is a material benefit to Borrower and acknowledges that the terms and provisions of this Stipulation D-3 are a material inducement to Lender amending the 1110 Market Loan and the Loan Documents.

(e) Upon the sale of the Premises and the repayment in full of the Note and other obligations under the Loan Agreement, Lender agrees to release the Premises from the terms and provisions of this Stipulation D-3 if the 1110 Market Secured Property would, after the date of such sale, have a Proforma Debt Service Coverage Ratio of at least 1.25:1.00 (the "Release Test"). If the 1110 Market Secured Property fails to satisfy the Release Test as of the date of the sale of the Premises, Borrower or 1110 Market may, at its option, pay down the 1110 Market Loan to an amount that would cause the 1110 Market Secured Property to satisfy the Release Test and thereby be deemed to have satisfied the Release Test in such instance. As used herein, "Proforma Debt Service Coverage Ratio" shall mean the ratio of Net Operating Income (as defined in the 1110 Market Loan Agreement) to Proforma Annualized Debt Service. As used herein, "Proforma Annualized Debt Service" shall mean an amount equal to twelve (12) multiplied by the level monthly principal and interest payment that would be necessary to fully amortize a loan in an amount equal to the maximum outstanding Loan principal amount of the 1110 Market Loan as provided in the 1110 Market Loan Agreement over a period of twenty five (25) years utilizing an interest rate equal to the greater of (i) six and 50/100 percent (6.50%) per annum, (ii) the then-applicable interest rate then in effect under the 1110 Market Note or (iii) the Treasury Rate then in effect on the date of calculation plus two and 40/100 percent (2.40%) per annum. "Treasury Rate" means a rate per annum equal to the yield on actively traded United States Government securities issues adjusted to a constant maturity for a term of ten (10) years, as published in the Federal Reserve Statistical Release H.15(519) for the appropriate maturity under the heading "U.S. Government Securities - Treasury Constant Maturity". In the event the Federal Reserve Statistical Release H. 15(519) is no longer published or in the event such publication ceases to publish the yield on actively traded United States Government securities issues, then the "Treasury Rate" shall be determined by reference to the Wall Street Journal for the appropriate maturity under the heading "Treasury Bonds, Notes and Bills" and the subheading "Government Bond and Notes" (or a comparable rate if such alternate publication is no longer published).

4. Other Amendments. All references to the Note in the Deed of Trust shall hereafter refer to the Note as amended by that certain First Amendment to Promissory Note, dated of even date herewith, by and between Borrower and Lender. All references to the Loan Agreement in the Deed of Trust shall hereafter refer to the Loan Agreement as amended by that certain First Amendment to Loan Agreement, dated of even date herewith, by and between Borrower and Lender and acknowledged by Guarantor.

5. No Further Amendments. Except as expressly amended hereby, the Deed of Trust shall remain in full force and effect as originally executed. The execution and delivery hereof shall not constitute a novation of the Note, or modification or novation of the lien and security title of the Deed of Trust, which lien and security title will retain its priority as originally filed for record.

6. Recourse Limitation. Reference is hereby made to the provisions of the Loan Agreement limiting the personal liability of Borrower's Exculpated Parties (as defined therein), which provisions are hereby incorporated herein for all purposes.

IN WITNESS WHEREOF, Borrower and Lender have executed this instrument under seal by and through their duly authorized representatives as of the day and year first above written.

BORROWER:

TSO CHATTANOOGA DEVELOPMENT, LP,
a Georgia limited partnership

By: Chattanooga Development General Partner,
LP, a Georgia limited partnership, its
general partner

By: TSO Chattanooga GP SPE, Inc., a
Delaware corporation, its general
partner

By: _____ SEAL
A. Boyd Simpson, President

[Signatures continue on following page.]

LENDER:

SOUTHSTATE BANK, N.A.

By: _____

Name:

Title:

[BANK SEAL]

AUTHORITY:

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee

By: 
Name: Hicks Armor
Title: Chair

Attest: 
Name: Richard Johnson
Title: Secretary

[AUTHORITY SEAL]

STATE OF GEORGIA

COUNTY OF _____

Acknowledgment

Before me, _____, of the state and county aforesaid, personally appeared A. Boyd Simpson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President of TSO Chattanooga GP SPE, Inc., a Delaware corporation, the general partner of Chattanooga Development General Partner, LP, a Georgia limited partnership, the general partner of TSO CHATTANOOGA DEVELOPMENT, LP, a Georgia limited partnership, the within named bargainer, and that he as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of said corporation by himself as President in its aforesaid capacity as the general partner of the general partner of the within named bargainer.

WITNESS my hand and seal at office in _____, Georgia, this _____ day of _____, 2024.

My commission expires:

Notary Public

[Affix Notary Seal].

STATE OF GEORGIA

COUNTY OF _____

Acknowledgment

Before me, _____, of the state and county aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Senior Vice President of SOUTHSTATE BANK, N.A., the within named bargainer, and that he as such Senior Vice President, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of said corporation by himself as Senior Vice President of the within named bargainer.

WITNESS my hand and seal at office in _____, Georgia, this _____ day of _____, 2024.

My commission expires:

Notary Public

[Affix Notary Seal].

STATE OF TENNESSEE

COUNTY OF HAMILTON

Acknowledgment

Before me, Maria Manalla, of the state and county aforesaid, personally appeared Hicks Armor and Richard Johnson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Chair and Secretary, respectively, of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public corporation created and existing under the laws of the State of Tennessee, the within named bargainor, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the Authority as such officers.

WITNESS my hand and seal at office in Chattanooga, Tennessee, this 6th day of September, 2024.

My commission expires:

4/28/26

Maria Manalla

Notary Public

[Affix Notary Seal].



RESOLUTION

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO ENTER INTO AN AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED, WITH CHATTANOOGA NEIGHBORHOOD ENTERPRISE (CNE) AND PROVIDE FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) FROM THE HEB AFFORDABLE HOUSING FUND TO CONTINUE PROGRAMS ENSURING AVAILABILITY OF AND ACCESSIBILITY TO AFFORDABLE HOUSING, EXPANDING ACCESS TO FINANCIAL RESOURCES, AND EMPOWERING RESIDENTS TO ADVOCATE FOR THEIR NEIGHBORHOODS.

NOW THEREFORE, BE IT RESOLVED BY THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, That it is hereby authorizing the Administrator for the Department of Economic Development to enter into an agreement, in substantially the form attached, with Chattanooga Neighborhood Enterprise (CNE) and provide \$500,000.00 from the HEB Affordable Housing Fund to continue programs ensuring availability of and accessibility to affordable housing, expanding access to financial resources, and empowering residents to advocate for their neighborhoods.

ADOPTED: September 16, 2024

HEALTH, EDUCATIONAL AND HOUSING FACILITY
BOARD OF THE CITY OF CHATTANOOGA

ATTEST:

_____, Secretary

(HEB-2024-17)



CHATTANOOGA
NEIGHBORHOOD
ENTERPRISE

July 30, 2024

Sondra Gober
Manager, Housing & Community Investment
City of Chattanooga
101 East 11th Street
Chattanooga, TN 37402

Dear Ms. Gober,

Chattanooga Neighborhood Enterprise (CNE) is committed to fostering thriving, inclusive neighborhoods and economic empowerment for all residents of Chattanooga. Our mission is to ensure that our city is a place of opportunity for everyone, regardless of their background or income level.

We achieve this by investing in historically underserved communities, increasing the availability of affordable housing, expanding access to financial resources, and empowering residents to advocate for their neighborhoods. Our comprehensive approach addresses the diverse needs of both tenants and homeowners, helping them build a secure and prosperous future.

CNE's comprehensive programs encompass:

- **Affordable Housing Development:** We transform vacant and blighted lots into affordable housing options for sale and rent, addressing the urgent need for safe and accessible housing.
- **Resident Leadership Development:** We empower residents to become leaders in their communities, fostering a sense of ownership and pride.
- **Homeownership Promotion:** Through homebuyer education, down payment assistance (including \$40,000-\$50,000 interest-free loans), and affordable mortgages, we help families realize the dream of homeownership.
- **Home Preservation Services:** Our home improvement loans and foreclosure prevention services help homeowners maintain and protect their investments.
- **Affordable Rentals:** Our affordable rental properties offer a stepping stone towards homeownership for many families.
- **Financial Education and Counseling:** Our Money School program and counseling services equip individuals and families with the financial literacy skills needed to make informed decisions.
- **Small Dollar Loan Program:** We offer small dollar loans to provide a safety net for those facing unexpected expenses or financial challenges.
- **Loan Servicing:** We manage the City's \$5.728 million loan portfolio, ensuring the smooth operation of vital government services and generating revenue for the city.

To sustain our impactful work, we are requesting \$500,000 in funding from the Chattanooga Affordable Housing Fund (CAHF). This funding will allow us to continue our programs, ensuring that affordable housing opportunities remain accessible to those who need them most. By investing in CNE, you are investing in the future of Chattanooga—a city where everyone can thrive.

1500 Chestnut Street, Suite A | Chattanooga, TN 37408 | P 423.756.6201 F 423.756.3851

Sandra Gober
Page Two
July 30, 2024

Thank you for your time and consideration. We look forward to the opportunity to discuss our programs and their impact in greater detail.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martina S. Guilfoil". The signature is fluid and cursive.

Martina S. Guilfoil
President & CEO

Enclosures

City of Chattanooga
Department of Economic Development
Chattanooga Affordable Housing Fund (CAHF)
Application for Planning & Discovery



Application Checklist

1. Cover Letter specifying:
- a. The name and address of the organization;
 - b. The agency's mission;
 - c. The funding amount being requested, name of program/project/activity, and specific, proposed use of funds;
 - d. The name, address, and telephone number of a specific contact person within the organization that can be contacted for additional information, if necessary.
2. Completed and signed Application Form
3. Required Attachments/Supplemental Information:*
- a. Agency-wide, board approved most recent Annual Operating Budget
 - b. Charter of the non-profit organization filed with Tennessee Secretary of State. If the Name on the Charter does not match the Agency's current name, please ensure any amendments or merger documents filed with the State are provided;
 - c. Document indicating Non-Profit Tax Exemption Status for the non-profit organization under the Internal Revenue Code, such as an IRS Determination Letter;
 - d. Most recent IRS Form 990 as filed with the IRS;
 - e. The most recent **Annual Audit** (if applicable) of the non-profit organization, prepared by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards. Fiscal Year 2022- 23 Audited Financial Statements are preferred. If 2022 -23 annual audit is not yet available, then please provide the most recent audit (2021- 22), as well as an engagement statement noting when the 2022 - 23 audit will be completed and submitted to the City.
 - f. If the agency is not required to file Form 990 with the IRS or have an independent audit report due to other funding requirements, annual financial statements, prepared by the agency or compiled by an accountant, must be submitted with request.
 - g. Provide a list of full time, part time and contract employees associated with the project/program; staff biographies/resumes, description of their roles in the project/program; and job descriptions.
 - h. List of the Board of Directors, including position, contact information, and number of years served;
 - i. Board approval for application submittal for the specified project(s);
 - j. If project involves construction, project write-up and a certified cost estimate from qualified contractor, engineer, or architect – as applicable;
 - k. Certification regarding debarment; and
 - l. Certification of Conflict of Interest
- Hardcopy Submitted** – HCI office; City of Chattanooga, Department of Economic Development, 101 E 11th Street, Suite 200, Chattanooga, TN 37402
- Electronic Copy Submitted** to hci@chattanooga.gov and copy

CAHF Application Form for Programs

1. General Organization & Project Information

Agency:	Chattanooga Neighborhood Enterprise				
Website:	www.cneinc.org				
Name of Contact Person:	Martina Guilfoil				
Title:	President & CEO				
Address:	1500 Chestnut St # 102				
City:	Chattanooga	State:	TN	Zip Code:	37408
Phone:		Email:			
SAM or UEI Number:	KN3XE3TDLMV5	Federal Tax #:	62-1300726		
Entity/ Agency Type:	<input type="checkbox"/> City Government Agency				
	<input type="checkbox"/> Public Agency, i.e. Public Housing Authority				
	<input checked="" type="checkbox"/> Non-Profit Organization				
	<input type="checkbox"/> For-Profit Entity Indicate:				
	<input type="checkbox"/> Other Indicate:				
Date of Legal/Official Creation:	December 12, 1986				

Organization Mission Statement

To create economically diverse neighborhoods filled with financially empowered citizens and housing for all.

Vision Statement

All Chattanoogaans can afford a safe place in a strong neighborhood to call home

2. Project/Program/Activity Information

Project Name:	Implementation support of the Mayor's One Chattanooga Plan			
Project Address:				
City:		State:		Zip Code:
Neighborhood(s)	All with special emphasis on ridge to river			
Council District(s)	All with special emphasis on ridge to river			

Type Program/Project/ Activity:	<input checked="" type="checkbox"/> Homeowner Rehabilitation Program			
	<input type="checkbox"/> Public Assistance - Services			
	<input checked="" type="checkbox"/> Housing Assistance (rent, utility payments, deposits, etc.)			
	<input checked="" type="checkbox"/> Housing Counseling, Housing Education			
	<input checked="" type="checkbox"/> Other Indicate: Affordable housing development, community engagement and investment, loan servicer			
Funding Request:	\$ 500,000	Applicant's Leverage:	\$ 2,129,938	
Total Project Cost:	\$ 2,629,983	Applicant's Leverage - % of Total Project Cost	4.26	%
Projected Start Date:	July 1, 2023	Projected Completion Date:	June 30, 2025	
Objective/Outcome				

Program Priority	
Program Outcome	

3. Priority

CAHF Priority Project/Program/Activity Will Address	
Priority Being Addressed	Goal Outcome Indicator
<input checked="" type="checkbox"/> A. Expand affordable housing inventory across the city	see attached
<input type="checkbox"/> B. Diversify the range of capital options available for affordable housing development	
<input type="checkbox"/> C. Expand supportive housing resources to end chronic homelessness	
<input checked="" type="checkbox"/> D. Support both tenants and housing providers with housing security and eviction prevention resources	
<input type="checkbox"/> E. Preserve land for affordable housing in transitioning neighborhoods	

4. Program/Project/Activity Details - Narrative

<p>Project Description - Describe program/project/activity along with justification/demonstration of need as well as organization's need for funding. Discuss where, when, and how, the CAHF resources and other related funds will be used. Discuss what service(s)/benefits will be provided to clients, as well as how project/program is operated in collaboration with other projects/programs in the community.</p> <p>For homeowner rehab programs, please discuss applicable energy saving features; property standards; ongoing program/project administration; ensuring compliance and period of affordability; and composition of targeted area.</p>
See attached

5. Summary Project/Program/Activity Budget and Funding Information (Increase rows if necessary or attach additional sheets) Detailed Budget

Program/Project/ Activity Budget Line Items	Total Line Item Cost	Amount CAHF Will Cover	Amount Other Sources Will Cover	Name of Other Sources
see attached	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	

	\$	\$	\$	
Total Project/Program/Activity Cost	\$	\$\$	\$\$	
Percentages	100%			

Budget and Funding Information - Provided supporting details/information on the numbers included in the budget chart. Discuss when and how CAHF funds, and any other funds will be utilized – providing specific details on the costs applicable to CAHF. If the activity is not a new activity, discuss how those costs were covered in the past.

See attached

6. Target Beneficiary Expectations

<i>a) Clients/Patients/Recipients/Other</i>	<i>Target</i>
1. Number of Persons to Be Served or Impacted	3464

b) Target Population(s)

Beneficiaries	Estimated Number to be Served
<input checked="" type="checkbox"/> Low and moderate income individuals	3118 (90%)
<input type="checkbox"/> Low/Mod income households	
<input type="checkbox"/> Low/Mod income community	
<input type="checkbox"/> Elderly	
<input type="checkbox"/> Individuals with disabilities	
<input type="checkbox"/> Homeless individuals	
<input type="checkbox"/> Special Needs:	
<input type="checkbox"/> At-risk youth Specify:	
<input type="checkbox"/> Other (Specify)	

c) Proposed Beneficiaries		Target
2. Unduplicated Count of Program Beneficiaries :		
a) Households <input type="checkbox"/> b) Persons <input checked="" type="checkbox"/>	TOTAL	3464
3.		
A. Age Group	TOTAL	
a) Infants – Under 5		1%
b) Between 5 and 12		1%
c) Between 13 and 17		1%
d) Between 18 and 29		16%
e) Between 30 and 64		74%
f) 65 and over		7%
g) Not Known		
B. Sex	TOTAL	
a) Male		30%
b) Female		70%
c) Not Known		
C. Ethnic Background	TOTAL	
d) White		39%
e) Black		51%
f) Hispanic		6%
g) Asian		4%
h) Other – Ethnic Minority		
i) Not Known		
D. % Income Level	TOTAL	
j) Below – 30%		25%
k) 31 – 50%		30%
l) 51 – 80%		35%
m) 81% and Over		10%
n) Not Known		

7. Program/Project/Activity Details - Narrative

Provide details on the information included in the charts above - discussing the measurable, quantifiable outcomes, objectives, and beneficiaries.

See attached

8. Target Population

Discuss the target population(s) that will be served and how it was determine

9. Service area

- Discuss the area in which the proposed program/project/activity will cover.

CNE serves the entire city of Chattanooga

10. Long term sustainability

What are the expected long-term benefits to the proposed beneficiaries and how will they be sustained? Additionally, if project is funded how it will be funded/sustained in upcoming years?

See attached

11. Project timeline/milestones -

Detail the chronological order of the major phases of your project / program. Include expected start date and end date. Although this is only a projection, be as accurate as possible).

CNE's programs are ongoing basis. 24 units of rental housing will come on-line in October 2024. CNE just broke ground on 32 units of housing with an additional 50 units slated to break ground in August and September 2024. *Type text here*

12. Community Engagement

Discuss how program/activity will be coordinated with others in the community.

See attached

13. Program/project evaluation plan

How will you know if your project is successful? Briefly describe your method for evaluating (measuring) the success of your project, including frequency of evaluations.

See attached

14. Project Team Experience/Capacity

1. Below, provide the names of key members of the organization's team, their titles and years of experience with comparable projects.		
Name	Title (e.g., executive director, president, project manager)	Years' Experience in Affordable Housing
Martina Guilfoil	President & CEO	38
Justin Tirsun	VP N'hood Investment and Community Engagement	13
Jake Toner	Real Estate Development	24
Carolyn Burke	Homeownership Center Manager	30
Robert Prichard	VP Asset and Property Management	21

15. Organizational History/Experience

1. Has the organization completed similar projects for which you are seeking approval through this application?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Please describe the similar projects completed, outcomes and current status	
3. Are there other agencies that provide the same or similar programs to the one you are proposing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please discuss these projects and explain why your project should be funded. What makes it unique to similar projects in the area?	
4. With or without CAHF funding, how will the proposed project/program be leveraged and sustained in the future?	
See question # 10, Long term sustainability	

5. Please provide information describing the agency's history, experience and capacity to undertake and carry out the project/program, expend awarded funds in a timely manner, and adhere to any required long-term compliance.
--

See attached

16. Current Program Capacity

1. Is this proposed project/program in coordination with, or part of, an ongoing Housing or Community Development Initiative? Yes No

If yes, please discuss these programs and explain.

See attached

2. What services/activities are the applicant organization currently providing and to what type of clientele? What types and number of beneficiaries are/were assisted, annually? Discuss similar projects you have managed in the past three years?

See attached

3. If the applicant organization currently does not have the capacity or has identified a weakness in its capacity, how will this be remedied? n/a

17. Operational/Administrative Stability

1. When was the organization's last independent financial audit completed?

Date: September 2023

2. Were there any findings?

Yes No

3. Have these findings been resolved?

Yes No

4. If not, what is your plan for resolution?

5. Is the organization currently engaged in any project workouts on other projects?

Yes No

6. If yes, please list any projects in workout, and provide a brief summary of the reason for the workout status.

Project Name	Reason for Workout

7. Check each item that exists within your organization's capacity.

- Audit System
- Written, internal controls
- Record Keeping System
- Procurement System - formal written procedures in place
- Staff Time/ tracking and distribution
- Client eligibility and demographic data collection and reporting system
- Conflict of interest policies
- Formal personnel system - written procedures in place
- Fund raising/development
- Revenue generation
- No outstanding findings or issues

8. Describe the applicant organization's administrative systems including but not limited to the above list. If any gaps exist in the applicant organization's administrative systems, how will they be addressed

See attached

1. AUTHORIZATION FOR APPLICATION SUBMITTAL

Name of Organization: Chattanooga Neighborhood Enterprise

Address: 1500 Chestnut St #102, Chattanooga, TN 37408

Name of Individual Authorized to Submit Application: Martina Guilfoil

Title of Individual Authorized to Submit Application: President & CEO



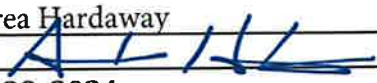
Signature of Individual Authorized to Submit Application

Date: July 29, 2024

2. BOARD OF DIRECTOR AUTHORIZATION

I (We) certify to the City of Chattanooga that the Board of Directors of the organization identified in this application has authorized the submission of this request for funding support. I (We) certify, to the best of my (our) knowledge, that the information contained in this proposal is true and complete.

1. Name of Authorized Board Official:

Print Andrea Hardaway
Signature: 
Date: July 29, 2024
Title: Chair

2. Name of Authorized Board Official:

Print _____
Signature: _____
Date: _____
Title: _____

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, INELIGIBILITY, AND OTHER RESPONSIBILITY MATTERS

Title 24 Code of Federal Regulations Part 24 requires that City of Chattanooga not enter into contract with any agency, corporation, partnership, or other legal entity that has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. You are required to sign the certification below which specifies that neither you nor your principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in programs funded by a Federal agency. It also certifies that you will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any contractor that is debarred, suspended, or ineligible under 24 Code of Federal Regulations Part 24.

If you need to determine whether your agency/firm has been debarred or suspended, or if a subcontractor you plan to hire is suspended or debarred, please refer to the following sources:

- *List of Parties Excluded From Federal Procurement and Non-procurement Programs, issued by the U.S. General Services Administration, Office of Acquisition Policy. Contact the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402 (Reference Stock # 722-002-00000-8). The telephone number is 202-512-1800.*
- *Internet access is also available at <http://epls.arnet.gov>*

1. By signing and submitting this certification, the undersigned certifies to the best of its knowledge and belief, that it and its principals:
 - a) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - b) Have not within a three-year period preceding this award, been convicted of or had a civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;
 - c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in Section (1.b) of this certification;
 - d) Have not within a three-year period preceding this award, had one or more contracts (Federal, State, or local) terminated for cause or default;
 - e) Will not knowingly enter into any subcontract with a person who is, or organization that is, debarred, suspended, proposed for debarment, or declared ineligible for award of contracts by any Federal agency; and
 - f) Will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts; subgrants; and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
2. "Principals", for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity.
3. Where the undersigned is unable to certify to the statements listed in Section (1) in this certification, an explanation shall be attached. The Contractor shall provide immediate written notice if, at any time prior to or during the negotiated contract period, the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by Section (1) of this provision. The knowledge and information of Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification submitted to the City of Chattanooga is a material representation of fact upon which reliance is placed when entering into a contract agreement. If it is later determined that the Applicant knowingly rendered an erroneous certification, in addition to other remedies available, the City of Chattanooga may terminate, for default, any contracts executed from reliance upon this information.

  July 29, 2024

Signature of Authorized Signing Official/Representative

Date

Martina Guilfoil

Chattanooga Neighborhood Enterprise

Printed Name of Signer

Name of Agency

4. Conflict of Interest Disclosure Form

Conflict of Interest Regulations: U.S. HUD's Conflict of Interest provisions are set forth at 24 CFR 570.611(b) which provide in relevant part that "...no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter..." 24 CFR 570.611(c) describes the persons covered by the above rule as being applicable to "Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer or elected official or appointed official of the recipient, or any designated public agencies, or of subrecipients that are receiving funds under this part."

The purpose of this document is to assist in the determination of whether additional restrictions, oversight, or other conditions might be advisable prior to execution of any contract, funding or providing assistance. The term "Conflict of Interest" refers to situations in which financial or other personal considerations may compromise or have the appearance of compromising professional judgment in following the rules and regulation of the program. Please mark the appropriate box for each question and complete the attachment, if indicated. This form (with Attachment, if required) must be completed and returned with your application.

Agency Name:

Funding Source:

Agency Address:

City, State, ZIP:

Project Name:

A. Family Relationships:

Does any employee, board member or person (as described above) in your agency have a family member directly or indirectly involved or employed with the Department of Economic Development and/or City of Chattanooga that creates a conflict of interest or the appearance of a conflict under the Conflict of Interest Regulation?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

B. Program Relationships:

Does any employee, board member or person (as described above) in your agency serve or is appointed in a Department of Economic Development and/or City of Chattanooga Board/Committee have or may create a conflict of interest or the appearance of a conflict under the Conflict of Interest Regulation?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

Does an employee of the Department of Economic Development and/or City of Chattanooga serve in the agency's Board of Directors, which may create a conflict of interest or the appearance of a conflict under the Conflict of Interest Regulation?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

Does any elected official of the City of Chattanooga serve in the agency's Board of Directors, which may create a conflict of interest or the appearance of a conflict under the Conflict of Interest Regulation?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

Is any employee, board member and/or person (as described above) in your agency involved in any other activity, directly or indirectly, with the Department of Economic Development and/or City of Chattanooga that may create a conflict of interest or the appearance of a conflict under the Conflict of Interest Regulation?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

C. Business Relationships

Is any employee, board member or person in your agency or a family member (spouse, child, stepchild, parent, sibling, or domestic partner) involved as an investor, owner, employee, consultant, contractor, or board member with an entity that has a contractual relationship with the Department of Economic Development and/or City of Chattanooga to provide goods or services, sponsor development activities and/or receive referrals from the Department of Economic Development and/or City of Chattanooga?

Yes No (If YES, please complete Part A of the Conflict of Interest Disclosure Form Attachment)

I have read and understand the Conflict of Interest Disclosure Form. I have disclosed all information required by this disclosure, if any, in an attached statement. I agree to comply with any conditions or restrictions imposed by the Department of Economic Development and/or City of Chattanooga to reduce or eliminate actual and/or potential conflicts of interest. I will update this disclosure form promptly, if relevant circumstances change. I understand that this Disclosure is not a confidential document. If U.S. HUD determines that a conflict of interest exists, this contract may be terminated and you may be required to return any and all funding allocated, whether used or not used.

Print Name: Martina Guilfoil

Date: July 29, 2024 23

Signature:



3. Priority

Goal Outcome Indicator

Expand Affordable Housing throughout the city.

Strengthen HOUSING security + stability	2024-2025 Target
Number of rental units created by CNE	24
Number of for-sale units created by CNE	5
Number of CNE rental units available	243
Number of mortgages originated (all)	50
Number of down payment assistance loans/grants	15
Number rehab loans	10

Promote healthy + engaged NEIGHBORHOODS	2024-2025 Target
Attendance at monthly neighborhood meetings remain at or exceed City average	15
Total Resident Attendance Instances (counting individual instances of attendance, not unique individual).	1400
% of the community in attendance at least one neighborhood event annually	70%
% of residents that report that they believe their work has impact on the community	50% in Ridgedale 30% in Oak Grove
Number of 311 calls per month	Avg 40 per month
% of residents reporting knowledge of a neighborhood association	80% in Ridgedale 60% in Oak Grove

Foster FINANCIAL WELLBEING + resiliency	2024-2025 Target
Number of people who complete the 8 hour homebuyer education course	125
Number of people who receive financial coaching + counseling	175
Number of people who attend financial education (like Money School)	150
Number of small dollar loans	500
Number of small dollar employers participating	15

Grow ORGANIZATIONAL CAPACITY + IMPACT	2024-2025 Target
Number of targeted campaigns (gentrification, missing middle, affordable housing, zoning, policy platform)	2 campaigns
Launch CNE Homes, a modular home building business	Build 3 homes
Increase revenue across existing lines of business	25%

4. Program/Project/Activity Details - Narrative

Describe program/project/activity along with justification/demonstration of need as well as organization's need for funding. Discuss where, when, and how, the CAHF resources and other related funds will be used. Discuss what service(s)/benefits will be provided to clients, as well as how project/program is operated in collaboration with other projects/programs in the community.

Program/Project/Activity Description:

CNE is dedicated to a multipronged approach aimed at supporting low- and moderate income, working families in Chattanooga in their journey toward financial prosperity. This multifaceted program aligns directly with the city's Mayor's One Chattanooga Framework and encompasses various key components:

Affordable Housing Development: CNE identifies vacant and blighted lots within the community and develops affordable and workforce housing for sale and rent. This initiative addresses the critical need for safe and affordable housing options for low to moderate income households.

Resident Leadership Development: CNE actively engages residents in the neighborhoods it serves and empowers them to take a proactive role in managing and improving their communities. This resident leadership development approach fosters a sense of ownership and pride in their neighborhoods.

Homeownership Promotion: CNE offers comprehensive support for individuals and families seeking homeownership. This includes homebuyer education, down payment assistance, and affordable mortgage products. CNE recently began offering downpayment loans between \$40,000 and \$50,000 from city ARPA funding to assist overcome the increase in home prices. The loans have no interest or payment and are due upon sale or title transfer of the house. These services are essential to helping low-income households overcome financial barriers to owning a home.

Home Preservation Services: CNE provides home improvement loans and foreclosure prevention services, enabling existing homeowners to maintain and protect their investments in their homes.

Affordable Rentals: CNE's affordable rental properties are designed to save families money while they work toward their homeownership goals. This component helps bridge the gap between renting and owning for many low-income families.

Financial Education and Counseling: Financial counseling and coaching, as well as the Money School program, are integral parts of CNE's approach to promoting general financial literacy among program participants. This knowledge equips families with the skills to make informed financial decisions.

Small Dollar Loan Program: Small dollar loans are an important resource for people who may not have access to traditional banking services or who need a short-term financial boost. These loans can help individuals cover unexpected expenses, make necessary purchases, or bridge gaps in their budgets. By offering small dollar loans, CNE can provide a lifeline to those in need and help prevent them from falling into cycles of debt and financial insecurity.

Loan Servicing: CNE is the loan servicer for the City's loan portfolio. These are loans made by CNE on behalf of the City to help first time home buyers buy a home or to help existing homeowners make needed improvements. The loans are funded through the City's HOME or CDBG programs. Loan servicing is an essential government service as the City's loan portfolio is worth \$5.728 million, representing 387 loans. Servicing the portfolio requires customer service, collecting payments and delinquency actions. In FY 2024, the loan portfolio generated \$820,676 in revenue back to the city.

Justification/Demonstration of Need:

The need for these programs and services is substantial. Chattanooga, like many other communities, has a significant population of low-income and working-class families facing housing insecurity, financial instability, and limited access to homeownership opportunities. CNE's approach is a response to the following pressing issues:

Affordable Housing Shortage: There is a shortage of safe and affordable housing in Chattanooga, making it difficult for low to moderate income households to secure stable housing.

Financial Barriers to Homeownership: Many families aspire to become homeowners, but they lack the financial resources and knowledge to navigate the homebuying process.

Neighborhood Improvement: Community development and resident leadership programs are essential to revitalizing and improving neighborhoods, enhancing overall quality of life.

Preserving Homeownership: Homeowners need support to maintain their properties and prevent foreclosure, especially during times of economic uncertainty.

Financial Literacy: A lack of financial education can lead to financial hardship and limited opportunities for upward mobility.

Access to credit and financial resources: CNE's small dollar loans, rental relief and downpayment assistance is needed to give people the opportunity to stabilize and achieve their financial goals.

Loan Servicing: Loan servicing is needed to protect the city's investment. It is a critical component of responsible financial management for municipalities and governments. In addition, flexibility in loan servicing not only protects homeownership but also promotes housing stability, financial responsibility, and community well-being for CNE borrowers. It is an important aspect of responsible lending and contributes to the overall health of the housing market and the community as a whole.

CNE's Need for Funding:

For 38 years, CNE has operated as an extended arm of the Economic and Community Development Department to execute its community revitalization and affordable housing objectives. CNE relies on city funding to operate and service the City's down payment and home improvement loan programs; develop income-restricted and affordable housing units; provide pre-purchase counseling; promote financial empowerment; create neighborhood leadership through civic engagement; informing policy; and other neighborhood revitalization activities to build stronger neighborhoods.

Service/Benefits Provided to Clients:

CNE's clients, which primarily consist of low-income, working families, receive a range of services and benefits, including:

- Access to safe, affordable housing options.
- Homeownership education and assistance, including down payment support.
- Financial literacy and counseling to improve financial stability.
- Opportunities for community involvement and leadership development.
- Home improvement loans and foreclosure prevention services to protect their homeownership investments.
- A pathway to building generational wealth and achieving long-term stability.
- Collaboration with Other Projects/Programs:

CNE actively collaborates with other community development organizations, local government agencies, and nonprofit entities to create a comprehensive approach to addressing the needs of low-income families. This collaboration ensures that clients can access a wide range of support services and resources to address their various needs, including housing, employment, education, and healthcare.

In summary, CNE's multifaceted program addresses the critical need for affordable housing and financial empowerment for low-income, working families in Chattanooga. By securing funding from CAHF resources and related funds, CNE can continue to provide essential services and support its clients in

their journey toward stable, thriving affordable rentals or homeownership while contributing to the overall betterment of the community.

7. Program/Project/Activity Details - Narrative

Provide details on the information included in the charts above - discussing the measurable, quantifiable outcomes, objectives, and beneficiaries.

CNE’s estimated 3464 beneficiary information is broken out as follows:

- 150 Money School + Financial Fitness attendees
- 125 Homebuyer education/e-home
- 150 counseling
- 1954 generated leads with follow-up
- 10 home improvements
- 387 city loans serviced
- 400 NICE residents engaged in volunteering
- 288 residents living in CNE properties

CNE created the following measurable outcomes for FY25.

Outcome	2024-2025 Target	How do we measure?	How often?
Strengthen HOUSING security + stability			
% of home purchasers at 80% or below AMI	60	Closing paperwork by HOC	Quarterly
% of home purchasers at 120% or below AMI	40	Closing paperwork by HOC	
% of home purchasers that are first time home buyers	75	Closing paperwork by HOC	Quarterly
% of African American buyers	≥ 40%	Closing paperwork by HOC	
% of renters at 80% or below AMI	90	rental application form	Monthly
Average length of tenant residency in rental units	3 years	Data in Appfolio	Monthly
Tenant satisfaction with living conditions in rental units	96%	Satisfaction Survey	Bi-Annual
% of rent collected on time	90%	Appfolio	Monthly
rental unit occupancy rate	97%	Appfolio	Monthly
Loan delinquent payment rate	≤ FHA rate	3DS software reporting	Monthly
% rehab recipients reporting safer housing, better quality of life, and ability to remain in place	100	Satisfaction Survey	Annually
Number of houses brought up to code through rehab loans	6	Closing paperwork by HOC	Quarterly
Promote healthy + engaged NEIGHBORHOODS			
	2023-2024 Target	How do we measure?	How often?

% of residents reporting knowledge of a neighborhood association	85% RD - 60% OG	CIMs 3 year Survey	Once 3 years
% of the community in attendance at least one neighborhood event annually	70%	Sign in sheets	Monthly
level of neighborhood ownership in events, Ridgedale	4 - Neighborhood Initiates, plans, and implements 2.75 -	event rubric filled out by CNE staff	Monthly
level of neighborhood ownership in events, Oak Grove	Neighborhood initiates 30% of events. Plans 50% of events. Implements 75% of events.	event rubric filled out by CNE staff	Monthly
% of residents that report that they believe their work has impact on the community	50% - RD 30% - OG	CIMs 3 year Survey	Once 3 years
Number of 311 calls	Average 40 a month	ChattaData	Monthly
Improvement in BUKI scores in target neighborhoods	0.15 increase from 2023	Annual Buki Score	Annually

Foster FINANCIAL WELLBEING + resiliency	2023-2024 Target	How do we measure?	How often?
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percent of Clients seeking counseling obtain their counseling goal (reduced debt, increased credit scores, increased savings, purchased a home, etc.).	30	Salesforce reporting	Monthly
% of attendees that report satisfaction with HOC financial education event	95	event survey	quarterly
% of attendees that report they applied the information learned at a CNE/HOC financial education event	90	event survey	annually
Average amount of savings to the small dollar loan borrower over payday lending	1190	small dollar loan reporting software	Monthly
Pull through rate of those receiving a small dollar loan that access another CNE offering	10	Salesforce reporting	Monthly

Grow ORGANIZATIONAL CAPACITY + IMPACT	2024-2025 Target	How do we measure?	How often?
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number of search results in Google News	20	Google Analytics	Monthly
number of CNE press releases published (print + online)	12	Staff Accounting	Monthly
Website traffic	+20%	Google Analytics	Monthly
Facebook followers	+10%	Facebook Analytics	Monthly
Instagram followers	+7%	Instagram Analytics	Monthly
Diversify funding sources to become less grant dependent; sustainable organization	Launch CNE Homes	State licenses	By June 2025

8. Target Population

Discuss the target population(s) that will be served and how it was determined

CNE has a long-standing commitment to serving predominantly low to moderate-income households in Chattanooga. The determination of our target population is rooted in a well-defined and data-driven process that considers the following factors:

Demographic Analysis: We conduct thorough demographic analyses of the Chattanooga area, taking into account income levels, housing conditions, employment opportunities, and other socioeconomic factors. This analysis helps us identify the specific neighborhoods and communities where low to moderate-income households are most concentrated.

Community Needs Assessment: We engage in ongoing community needs assessments to understand the unique challenges and requirements of the populations we aim to serve. This involves conducting surveys, and collaborating with local organizations and community leaders to gain insights into the most pressing needs.

Income Verification: Our programs generally include income verification processes to ensure that we are reaching individuals and families within the defined income range. This helps us maintain our commitment to serving the intended target population.

Historical Service Records: Over our 38 years of service, we have maintained detailed records of the households and individuals we have assisted. This historical data is invaluable in refining our target population and ensuring that we continue to meet the evolving needs of the community.

Feedback and Input: We actively seek feedback and input from the community members we serve, as well as from our dedicated staff and volunteers. Their perspectives and insights contribute to the ongoing refinement of our target population definition.

Our commitment to serving low to moderate income households is deeply rooted in our mission and guided by a commitment to equity and social justice. By continually assessing the needs of our community and maintaining an open dialogue with stakeholders, we ensure that our programs are designed to effectively support and empower the individuals and families we aim to serve.

10. Long term sustainability

What are the expected long-term benefits to the proposed beneficiaries and how will they be sustained? Additionally, if project is funded how it will be funded/sustained in upcoming years?

Expected Long-Term Benefits to Beneficiaries:

- **Stable Homeownership:** The primary long-term benefit for the proposed beneficiaries is achieving stable homeownership. By providing affordable housing options, homebuyer education, down payment assistance, and affordable mortgage products, CNE helps families secure a permanent place to call home. This stability can lead to increased overall well-being and a sense of security.
- **Wealth Building:** Homeownership is a key method of wealth building, and it can provide families with a financial asset that appreciates over time. CNE estimates that we have generated over

one-half billion dollars in equity for our borrowers. This equity can be used for future investments, education, retirement, and passing down to the next generation. In addition, on average, our affordable rentals save each household over \$6,000 per year. These savings benefit households by promoting financial security, improved quality of life, reduced financial stress, asset building, and economic mobility.

- **Financial Literacy:** Through financial counseling and the Money School program, beneficiaries gain financial literacy skills that extend beyond homeownership. These skills can help individuals and families make informed financial decisions, save, and plan for their financial futures.
- **Community Improvement:** As beneficiaries become engaged in their neighborhoods and take on leadership roles, they contribute to the long-term improvement and stability of their communities. Strong, cohesive communities benefit everyone who lives in them.
- **Housing Preservation:** Home improvement loans and foreclosure prevention services ensure that current homeowners can maintain and preserve their properties. This not only safeguards their investment but also contributes to the overall housing quality in the community.

SUSTAINABLE FUNDING FOR CNE:

CNE has been a vital part of the community for 38 years, providing essential city services funded primarily through the city's general operating fund. We acknowledge the importance of diversifying our funding sources to reduce our dependence on city funding. Our strategic plan, adopted by the board of directors in August 2023, outlines goals and activities to promote sustainability through a combination of strategies.

The strategic plan emphasizes two key activities to enhance sustainability:

1. **New Line of Business - CNE Homes.** We are embarking on a new business venture called "CNE Homes". CNE Homes is a manufactured affordable housing company tailored to create homes for households with income levels less than \$85,000. With ongoing business planning and a prototype scheduled for completion by November 2024, we anticipate CNE Homes becoming a profitable enterprise that aligns with our mission to expand the supply of/and provide affordable housing to our community.
2. **Increasing Revenues:** To bolster our financial sustainability, CNE will look across its existing lines of business to increase its revenues. To begin, CNE will now charge a 5% developer fee on our housing projects. To increase loan origination fees, CNE is actively exploring the expansion of our mortgage program into Georgia. The state's growing demand for affordable housing provides a compelling opportunity to expand our loan origination income. This endeavor will require a market assessment, the establishment of local partnerships, the customization of our mortgage products to meet regional needs, and an understanding of Georgia's regulatory requirements.

12. Community Engagement

Discuss how program/activity will be coordinated with others in the community.

Collaborative Partnerships: CNE actively seeks and maintains partnerships with other community-based organizations, local government agencies, and nonprofit entities. These partnerships include housing authorities, social service providers, schools, healthcare organizations, and more. Regular communication and collaboration with these partners ensure that resources and information are shared efficiently.

Referral Networks: CNE has referral networks with various community organizations. If a beneficiary requires services outside of CNE's scope, such as mental health support or legal assistance, CNE refers them to partner organizations that specialize in those areas.

Data Sharing: Collaboration involves sharing data and insights to better understand the needs of the community. CNE can work with local agencies to access data on housing affordability, income levels, employment opportunities, and other socioeconomic factors. This data can help CNE tailor its programs and target its efforts more effectively.

Joint Programs and Events: CNE partners with banks and others to host Money School which reaches a broader audience.

Community Engagement: Actively involving community members in the planning and decision-making processes fosters a sense of ownership and engagement. Hosting community meetings, focus groups, and forums that include representatives from various organizations can ensure that the community's voice is heard and that initiatives align with their needs.

Policy Advocacy: CNE collaborates with organizations and agencies involved in policy advocacy to help address systemic issues that affect the community. By working together on policy changes related to housing, CNE and its partners can create a more favorable environment for their beneficiaries.

By actively engaging in these coordination efforts, CNE creates a cohesive and comprehensive approach to community development, ensuring that beneficiaries receive a wide range of services and support from various organizations, ultimately leading to greater long-term success and stability for the community.

13. Program/project evaluation plan

How will you know if your project is successful? Briefly describe your method for evaluating (measuring) the success of your project, including frequency of evaluations.

Goals, outcomes, metrics and methods for evaluation are included in the charts under question #3 and #7. In summary they include:

Housing Metrics: Tracking the number of affordable housing units developed, sold, and rented, as well as occupancy rates.

Homeownership Rates: Measuring the percentage of program participants who transition to stable homeownership.

Financial Metrics: Assessing the financial well-being of beneficiaries, including credit scores, savings, and debt reduction.

Community Engagement: Measuring participation in community improvement activities and the growth of resident leadership.

Qualitative Assessments:

Beneficiary Feedback: Collecting feedback from program participants through surveys and interviews to understand their satisfaction, challenges, and needs.

Community Impact: Assessing the broader impact of programs on the community, including reduced blight, increased safety, and improved quality of life.

Benchmarking: Comparing CNE's project outcomes with industry benchmarks, local housing statistics, and similar community development initiatives.

Stakeholder Engagement: Engaging with partner organizations, local government agencies, and the community to gather insights, feedback, and assessments of the project's effectiveness.

Ongoing Data Collection: Regularly collecting and analyze data to track changes over time and identify trends and areas for improvement.

15. Organizational History/Experience

15.2 Please describe the similar projects completed, outcomes and current status

Affordable Housing Development: CNE has a long history of developing affordable and workforce housing for sale and rent. This includes rehabilitating blighted properties, constructing new homes, and repurposing vacant lots to create safe and affordable housing options for low to moderate income households.

1086 units built

189 rental units have been built since 2017. 28 Single family built 2015-2019

Current Projects-

- 24 units at 612 MLK - 11 units ≤60% AMI under construction
- 2003 Bailey Ave – 32 units, (2) tenplexes, (1) twelveplex ; 7 units are ≤60% AMI
- 1805 Lyerly – 16 units, (1) duplex, (1) quad, (1) tenplex, ; 4 units are ≤60% AMI
- Mill Town (17th& 18th St) –34 units, (2) sixplexes, (1) tenplex, (1) twelveplex,; 6 units are ≤60% AMI

Financial Literacy and Counseling: CNE has a robust financial education program, including the Money School, which has provided countless individuals and families with the knowledge and skills needed to make informed financial decisions and work towards their financial goals.

Over 35,000 counseled

90 homebuyer education last year

105 financial counseling

123 attended Money School or other financial event

Homeownership Promotion: CNE has extensive experience in offering homebuyer education, down payment assistance programs, and affordable mortgage products to empower individuals and families to become homeowners.

Since 1993, 5060 homebuyers created generating over \$.5 Billion in wealth
In FY 2024, 62% of buyers are African-American

Community Engagement: CNE actively engages with the community, fostering resident leadership and empowerment to drive neighborhood improvements. This experience includes working with community members to identify priorities, plan initiatives, and lead development efforts.

Last year facilitated 11 curb appeal projects with residents, created the Oak Grove Plan, developed 14 block leaders and attracted 1400 residents to volunteer and/or participate in neighborhood projects.

Small Dollar Loans: CNE made 274 loans for \$274,000 which represents a savings of \$520,600 for borrowers (\$1,190 per borrower) in pay day lending fees

Loan Servicing CNE has originated and serviced loans on behalf of the city of Chattanooga since its inception. The portfolio consists primarily home improvement loans. Currently CNE services 387 loans with and outstanding balance of \$5.728. This generated a total revenue back to the City in FY24 of \$820,786.

15.3 Please discuss these projects and explain why your project should be funded. What makes it unique to similar projects in the area?

There are no other organizations like CNE in Chattanooga. CNE's unique aspects include:

Multifaceted Approach: CNE employs a comprehensive, multifaceted approach that addresses a wide range of community development needs. From affordable housing development to financial education and resident leadership, it offers a holistic solution to empower low-income, working families.

Long-standing Community Presence: With a 38-year history of service in Chattanooga, CNE has deep roots in the community. This longstanding presence and commitment to the community's well-being demonstrate its dedication and reliability.

Resident Empowerment: CNE's focus on resident leadership and community engagement sets it apart. By actively involving residents in decision-making and development efforts, CNE creates a sense of ownership, ensuring that projects are community-driven and sustainable.

Financial Education and Counseling: CNE's Money School and financial counseling programs provide beneficiaries with the skills and knowledge needed for sound financial decision-making. This component not only supports homeownership but also promotes long-term financial stability.

Collaborative Partnerships: CNE collaborates with a broad network of local organizations and government agencies, enhancing its ability to leverage resources and create a synergistic approach to community development.

Data-Driven Decision-Making: CNE uses data and assessments to tailor its programs to the evolving needs of the community. This adaptability ensures that resources are used effectively.

Why CNE Project Should Be Funded:

Proven Track Record: CNE has a well-documented history of success, with numerous beneficiaries who have achieved stable homeownership and improved financial well-being. This track record demonstrates its ability to make a lasting impact.

Comprehensive Solution: CNE's project offers a one-stop solution to address multiple community development challenges, making it a highly efficient and cost-effective approach to improving the well-being of low-income families.

Community Buy-In: The emphasis on community engagement and resident leadership ensures that projects are aligned with the community's needs and priorities, leading to greater acceptance and sustainability.

Alignment with Local Initiatives: CNE's programs align with broader housing and community development initiatives in Chattanooga, contributing to citywide goals of affordable housing, neighborhood revitalization, and economic empowerment.

Positive Impact on Quality of Life: CNE's projects lead to improved housing conditions, financial stability, and a stronger sense of community, all of which contribute to an enhanced quality of life for beneficiaries.

Ongoing Support and Collaboration: CNE's project integrates collaboration and long-term support for beneficiaries. It is not a one-time intervention but a sustainable model for community development.

15.5 Please provide information describing the agency's history, experience and capacity to undertake and carry out the project/program, expend awarded funds in a timely manner, and adhere to any required long-term compliance.

CNE's extensive experience, history, and capacity make it well-suited to effectively undertake and carry out community development projects and programs. With a strong commitment to financial stewardship and compliance, CNE is positioned to expend awarded funds in a timely manner and adhere to any required long-term compliance to achieve the desired impact on the community.

CNE was founded in 1986 in Chattanooga, Tennessee, and has since played a vital role in the community's development. With nearly four decades of service, CNE has a well-established presence and a strong track record of creating positive change in the Chattanooga area.

Capacity:

Professional Staff: CNE employs a dedicated team of professionals with expertise in community development, housing, finance, and social services. These experts are essential for the successful implementation of CNE's programs.

Proven Track Record: CNE's long history of service and a track record of successfully completing projects demonstrate its capacity to undertake and manage community development initiatives effectively.

Financial Management: CNE has established financial management and reporting systems to ensure the responsible use of funds. These systems allow for accurate tracking of expenses, budget adherence, and timely financial reporting.

Compliance: CNE has a strong commitment to adhering to all regulatory requirements and long-term compliance obligations. This includes meeting federal, state, and local guidelines and maintaining transparency in financial and programmatic reporting.

Transparency and Accountability: CNE emphasizes transparency in its operations and is accountable to its stakeholders, including funders, beneficiaries, and the community.

Resource Mobilization: CNE actively seeks a variety of funding sources, enabling it to secure financial resources required for project sustainability and growth.

16. Current Program Capacity

1. Is this proposed project/program in coordination with, or part of, an ongoing Housing or Community Development Initiative? Please discuss these programs and explain.
2. What services/activities are the applicant organization currently providing and to what type of clientele? What types and number of beneficiaries are/were assisted, annually? Discuss similar projects to have managed in the past three years?

CNE's programs are a vital component of ongoing Housing and Community Development Initiatives in Chattanooga. They contribute to the city's efforts to create thriving, equitable neighborhoods by addressing housing affordability, financial stability, community engagement, and resident empowerment. By aligning with these initiatives, CNE leverages resources and expertise to achieve shared goals and create a more comprehensive approach to community development.

Housing Initiatives:

Affordable Housing Development: CNE's efforts to develop affordable and workforce housing align with citywide housing initiatives. These initiatives aim to increase the availability of safe, affordable housing for low to moderate income households. CNE's projects contribute to the overall housing stock and support the goals of these initiatives.

Housing Rehabilitation: CNE's work in rehabilitating blighted properties and vacant lots complements broader efforts to revitalize neighborhoods. By improving the quality of housing in targeted areas, CNE contributes to neighborhood stabilization and renewal initiatives while preserving stable housing options for very low income households.

Community Development Initiatives:

Resident Leadership Development: CNE's emphasis on resident leadership and community engagement aligns with broader community development initiatives that focus on empowering residents to take an active role in shaping their neighborhoods. This approach supports community-driven development.

Financial Literacy and Counseling: Financial education and counseling programs, such as the Money School, contribute to the broader goal of improving residents' financial well-being. This aligns with community development efforts aimed at increasing economic stability and self-sufficiency.

Collaborative Partnerships: CNE's extensive partnerships with other local organizations and government agencies enhance the overall impact of community development initiatives. These collaborations help create a coordinated and holistic approach to addressing community needs.

As previously mentioned, CNE serves over 3000 people annually through its programs.

17. Operational/Administrative Stability

Describe the applicant organization's administrative systems including but not limited to the above list. If any gaps exist in the applicant organization's administrative systems, how will they be addressed?

CNE has numerous written procedures and documentation systems in place to ensure transparency, compliance, and accountability. These systems also help ensure that the organization is well-managed, financially sound, and able to fulfill its mission and serve its stakeholders effectively. A few of the administrative systems include:

Audit System: CNE conducts an annual audit with an outside accounting firm. The auditor is responsible for conducting internal and external audits of an organization's financial and operational processes. The audit helps ensure that financial statements are accurate and that internal controls are effective.

Written, Internal Controls: CNE has internal controls are policies and procedures in place to safeguard CNE's assets, ensure financial accuracy, and prevent fraud and errors.

Record Keeping System: CNE has a record-keeping system that involves the creation, organization, storage, and retrieval of essential documents and data. It ensures that important records are readily available for reference and compliance purposes.

Staff Time Tracking and Distribution: CNE is required by its funding sources to account for staff time on projects. CNE also monitors staff time for cost analysis of programs.

Client Eligibility and Demographic Data Collection and Reporting System: CNE uses three different systems to track clients. It helps determine client eligibility, collect demographic information, and generate reports for program evaluation and compliance.

Conflict of Interest Policies: CNE Conflict of interest policies outline guidelines for employees and board members to avoid conflicts that could compromise the organization's integrity. They promote transparency and ethical behavior.

Formal Personnel System – CNE has an Employment Handbook that includes written procedures for hiring, onboarding, performance management, and employee relations. It ensures that HR practices are consistent and compliant with labor laws.

Summary Project/Program/Activity Budget and Funding Information

<i>Program/Project/ Activity Budget Line Items</i>	<i>Total Line Item Cost</i>	<i>Amount CHAF Will Cover</i>	<i>Amount Other Sources Will Cover</i>	<i>Name of Other Sources</i>
Affordable Housing Development	339,682	17,561	322,121	Fees and grants
Community Engagement	421,323	149,770	271,553	NeighborWorks, grants
Down Payment Assistance	386,904	145,350	241,554	Earned income
Home Improvement Program	212,934	137,934	75,000	Program delivery fee
Financial education and coaching	133,707	49,385	84,322	HUD grant, class fees
Loan Servicing	260,989	0	260,989	Earned income
Property Management	664,038	0	664,038	Earned income
Small Dollar Loan	140,115	0	140,115	Earned income
Money School	70,290	0	70,290	Donations
Total Project/Program/Activity Cost	2,629,983	500,000	2,129,983	
Percentages	100%	19%	81%	

Budget and Funding Information - Provided supporting details/information on the numbers included in the budget chart. Discuss when and how CAHF funds, and any other funds will be utilized – providing specific details on the costs applicable to CAHF. If the activity is not a new activity, discuss how those costs were covered in the past.

The Board approved detailed budget is attached.

Sources of Income:

- CNE generates earned income from several of its programs.
- It also earns interest on deposits.
- CNE receives operating grants from local foundations and NeighborWorks America.
- Local banks support CNE's annual Money School event.

Overhead Costs:

- The budget chart includes CNE's overhead costs. This encompasses expenses like accounting, marketing, occupancy, and other costs associated with operating its programs.

Contributions:

- CNE receives operating grants from local foundations and NeighborWorks America. Local banks support CNE's annual Money School event.

Earned Income/Fees

- The fees earned from mortgage lending and property management are mentioned as being lower than what the marketplace would normally receive.
- This is attributed to CNE's lower loan amounts and rents.
- Since fees are typically calculated as a percentage of the transaction amount, the income from these services is lower, while their costs remain the same as if CNE was operating a market rate development.

**CNE ANNUAL OPERATING BUDGET SUMMARY
FOR THE FISCAL PERIOD JULY 1, 2024 TO JUNE 30, 2025**

REVENUES	Budget
City of Chattanooga	500,000
Benwood & Lyndhurst	200,000
Neighborworks America	187,000
Contributions	13,000
Grants	6,000
HUD Counseling Grant	29,000
Money School	30,000
Release of Restricted & NW Grants	113,600
Earned Income	1,022,664
Rental Properties Net Cash Flow	312,000
Program Delivery	50,000
Other	190,508
TOTAL REVENUES	2,653,772

EXPENSES

Salaries & Related Expenses

Salaries & Wages	1,505,821
Taxes	118,582
Cost of Living Increase	37,225
Benefits	244,850
Training and Development	12,250
Total Salaries & Related Expenses	1,918,728

Operating Expenses

Rent and Utilities (Occupancy Costs)	97,978
Office Supplies	5,928
Printing	5,323
Postage	7,676
Equipment	5,682
Software	66,623
Document Storage	1,500
Communication	18,633
Insurance	62,887
Processing Fees (combined Bank Related and Cr	22,374
Professional Services	169,542
Dues and Subscriptions	31,185
Board/Staff Expense	11,400
Promotion and Marketing	38,500
Special Events (Money School)	17,500
Neighborhood Engagement Activities	20,000
HOC Outreach	3,100

Travel (includes mileage allowance for PM)	28,736
Taxes	590
Land Holding Costs	51,098
Miscellaneous	45,000
OPERATING EXPENSES	<u>711,254</u>
TOTAL EXPENSES	<u>2,629,983</u>
TOTAL INCOME OVER EXPENSES	23,790



CITY OF CHATTANOOGA
Department of Economic Development
Housing and Community Investment Division

Chattanooga Affordable Housing Fund

I. APPLICATION SUMMARY

Applicant Information and Contact Form	
Name of Individuals(s) or Legal Entity	Chattanooga Neighborhood Enterprise
Mailing Address for Entity	1500 Chestnut Street
City/State/Zip Code	1500 Chestnut Street
Name/Title of Primary Contact	Martina Guilfoil, President & CEO
Phone No. of Primary Contact	(423)756-6201
Email of Primary Contact	Mguilfoil@cneinc.org
Other Contact Information	
Other Contact Information	
Project Information	
Street Address	1500 Chestnut Street
City/State/Zip Code	Chattanooga, TN 37408
If request is for a program, study, etc. provide brief description of proposed outcomes or end product.	Implementation support of the Mayor's One Chattanooga Plan - Affordable housing development, community engagement and investment, loan servicing
Total Project Cost	\$2,629,983
Total Request From City	\$500,000
Expected Start Date	July 1, 2024
Expected Completion Date	June 30, 2025

II. EVALUATION AND SCORING SHEET

The following scoring criteria/points are used in evaluating each proposal. Construction/renovation projects must have a minimum score of 80 to be considered for a funding recommendation. Housing assistance programs and housing plans/reports must have a minimum score of 55.

Name of Individuals(s) or Legal Entity	Chattanooga Neighborhood Enterprise	
Criteria	Max. Points	Applicant Points
Project Information: Sufficient information to accurately evaluate the proposal	40	40
<i>Note: Adequate information provided</i>		
Experience & Capacity: Organizational/developer experience and capacity to take on and complete project. (including track record with developing and managing similar projects)	20	20
<i>Note: Organization has extensive experience in carrying out proposed activities. Has been in operation over 40 years.</i>		
Project Feasibility - Costs, Financing, Impact, & Sustainability	40	35
<i>Note: Leveraging over 95% of cost</i>		
Readiness (time until project completion)	10	10
<i>Note: Implementation to begin immediately</i>		
Bonus Points: 10 points for projects proposing to create housing to serve special needs populations (physical/mental illness, veterans, homeless, etc).	10	
Total Points	120	105

Evaluator

Name	Sandra Gober
Title	Manager, Housing & Community Investment
Date	8/5/2024

Contractual Agreement
Between
City of Chattanooga
and
Chattanooga Neighborhood Enterprise, Inc.
In the amount of \$500,000.00

Program: Chattanooga Affordable Housing Fund “CAHF”

Project: Programs Operation

THIS CONTRACTUAL AGREEMENT (“Agreement”), is made and entered into as of _____, 2024 (the Effective Date) “by and between the City of Chattanooga, Tennessee, acting through the Department of Economic Development with principal offices at 101 East Eleventh Street, Suite 200, Chattanooga, Tennessee 37402, as part of the first party hereinafter called the "City" or "Grantor", and Chattanooga Neighborhood Enterprise, Inc., a nonprofit corporation organized pursuant to the laws of the State of Tennessee, with principal offices at 1500 Chestnut Street, Suite 102, Chattanooga, TN 37408, and its subcontractors, as part of the second party, hereinafter called, “CNE”, "Grantee" or “Recipient”.

WITNESSETH

WHEREAS, the Council of the City of Chattanooga has approved the establishment of the Chattanooga Affordable Housing Fund “CAHF” and the allocation of necessary funds to provide resources for eligible and related activities relative to the production and preservation of quality, affordable housing; and

WHEREAS, the Grantee is a successful respondent to a Request for Proposal for eligible activities, as described herein, to be performed using the funds; (referred to herein as the “Project” or “project”); and

WHEREAS, the Health, Education and Housing Facilities Board (“HEB”) has approved requested funding of \$500,000.00 for eligible activities to be carried out by the Grantee as described in Part I

NOW, THEREFORE, the parties of this agreement for the consideration set forth below, do here and now agree to bind themselves to the following terms and conditions:

PART I. PROJECT DETAILS

1. Summary

- A. **Project Location:** 1500 Chestnut Street, Suite #102
- B. **Proposed Activity:** Affordable Housing Subsidy Needs
- C. **Total Project Cost:** \$2,629,983
- D. **Eligible Costs Covered by CAHF:** \$500,000 continued programs operation
- E. **Target Beneficiaries:** Households with incomes below 120% of Area Median Income (AMI)
- F. **Project Implementation:**
 - i. **Project Manager:**
 - ii. **Project Start Date:** July, 2024
 - iii. **Completion:** June, 2025

2. Purpose and Scope of Services

CNE is dedicated to a multipronged approach aimed at supporting low- and moderate income, working families in Chattanooga in their journey toward financial prosperity. This multifaceted program aligns directly with the city's Mayor's One Chattanooga Framework and encompasses various key components:

Affordable Housing Development: CNE identifies vacant and blighted lots within the community and develops affordable and workforce housing for sale and rent. This initiative addresses the critical need for safe and affordable housing options for low to moderate income households.

Resident Leadership Development: CNE actively engages residents in the neighborhoods it serves and empowers them to take a proactive role in managing and improving their communities. This resident leadership development approach fosters a sense of ownership and pride in their neighborhoods.

Homeownership Promotion: CNE offers comprehensive support for individuals and families seeking homeownership. This includes homebuyer education, down payment assistance, and affordable mortgage products. CNE recently began offering downpayment loans between \$40,000 and \$50,000 from city ARPA funding to assist overcome the increase in home prices. The loans have no interest or payment and are due upon sale or title transfer of the house. These services are essential to helping low- income households overcome financial barriers to owning a home.

Home Preservation Services: CNE provides home improvement loans and foreclosure prevention services, enabling existing homeowners to maintain and protect their investments in their homes.

Affordable Rentals: CNE's affordable rental properties are designed to save families money while they work toward their homeownership goals. This component helps bridge the gap between renting and owning for many low-income families.

Financial Education and Counseling: Financial counseling and coaching, as well as the Money School program, are integral parts of CNE's approach to promoting general financial literacy among program participants. This knowledge equips families with the skills to make informed financial decisions.

Small Dollar Loan Program: Small dollar loans are an important resource for people who may not have access to traditional banking services or who need a short-term financial boost. These loans can help individuals cover unexpected expenses, make necessary purchases, or bridge gaps in their budgets. By offering small dollar loans, CNE can provide a lifeline to those in need and help prevent them from falling into cycles of debt and financial insecurity.

Loan Servicing: CNE is the loan servicer for the City’s loan portfolio. These are loans made by CNE on behalf of the City to help first time home buyers buy a home or to help existing homeowners make needed improvements. The loans are funded through the City’s HOME or CDBG programs. Loan servicing is an essential government service as the City’s loan portfolio is worth \$5.728 million, representing 387 loans. Servicing the portfolio requires customer service, collecting payments and delinquency actions. In FY 2024, the loan portfolio generated \$820,676 in revenue back to the city.

3. Deliverables and Tasks

1. Goal Outcome Indicator - Expand Affordable Housing throughout the city.	
Strengthen Housing Security + Stability	2024-2025 Target
Number of rental units created by CNE	24
Number of for-sale units created by CNE	5
Number of CNE rental units available	243
Number of mortgages originated (all)	50
Number of down payment assistance loans/grants	15
Number rehab loans	10
Promote Healthy + Engaged Neighborhoods	2024-2025 Target
Attendance at monthly neighborhood meetings remain at or exceed City average	15
Total Resident Attendance Instances (counting individual instances of attendance, not unique individual).	1400
% of the community in attendance at least one neighborhood event annually	70%
% of residents that report that they believe their work has impact on the community	50% in Ridgedale 30% in Oak Grove
Number of 311 calls per month	Avg 40 per month

% of residents reporting knowledge of a neighborhood association	80% in Ridgedale 60% in Oak Grove
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Foster Financial Wellbeing + Resiliency	2024-2025 Target
Number of people who complete the 8 hour homebuyer education course	125
Number of people who receive financial coaching + counseling	175
Number of people who attend financial education (like Money School)	150
Number of small dollar loans	500
Number of small dollar employers participating	15

Grow Organizational Capacity +Impact	2024-2025 Target
Number of targeted campaigns (gentrification, missing middle, affordable housing, zoning, policy platform)	2 campaigns
Launch CNE Homes, a modular home building business	Build 3 homes
Increase revenue across existing lines of business	25%

4. Project Implementation and Time of Performance

A. Development Schedule

HEB Approval	8/12/2024
Programs Assistance Completion	6/30/2025

5. Program Performance and Timeline

1. Timely Expenditure of Funds

Grantee’s funding is subject to Grantee expending funds in a timely manner. If Grantee fails to expend CAHF funding in a timely manner, such failure shall constitute a material failure to comply with this Agreement and invoke the Suspension and Termination provisions of Part V. For purposes of this Agreement, “timely manner” with respect to expenditure of funds means Grantee shall expend or obligate by contract, as applicable,

funds as specified in the approved timetable in this PART, subject to Section 14 hereinbelow.

6. Budget/Leverage

A. Budget

Use of Funds	Total Cost	Sources of Funds	
		CAHF	CNE Leverage
Programs Operation	\$2629,983	\$500,000	\$2,129,983

7. Compensation and Method of Payment

- A.** The City shall pay and Grantee agrees to accept no more than \$500,000 (“*the Allocation*”) for performance under this Agreement.
- B.** The Allocation shall be provided in the form of a grant.
- C.** Based on the approved budget set forth in Section 6.A. above, payments toward the Allocation shall be made to Grantee on a reimbursement basis, upon presentation by Grantee of purchase supporting documentation demonstrating that costs have been incurred and paid. Examples of supporting documentation include, but may not be limited to, purchase agreements, cancelled checks, copies of timesheets, pay stubs, mileage reports, invoices, statements, receipts, etc.
- D.** Payments will only be made for approved, eligible expenses actually incurred by Grantee pursuant to contractual agreement(s). Total payments to Grantee will not exceed actual funds needed to reimburse Grantee for costs and expenses actually incurred. At the City’s discretion and with prior arrangement and approval, the City may make payments from the Allocation directly to Grantee’s vendors, suppliers, or contractors if payment by reimbursement to Grantee creates an undue hardship on Grantee.
- E.** Requests for reimbursements for the payment of eligible expenses shall be made against the line item budget specified in Part I Section 6., herein.
- F.** A Project budget spreadsheet summarizing Grantee’s reasonably estimated expenses must be prepared and submitted with each request for reimbursement. This report should also include other resources and leverage utilized in this project.
- G.** Payments made by the City may be contingent upon certification of Grantee’s financial management system, which certification shall not be unreasonably withheld, conditioned delayed or withdrawn.
- H.** Requests for reimbursement will not be processed prior to the following, at minimum:
 - i. The City having on file a completed and current W-9 Tax Form from Grantee;

I. Advance Funding

The City will not provide advanced funding to Grantee or any subcontractor, vendor, or supplier of Grantee hereunder; provided, however, “advanced funding” is not meant to include eligible unpaid costs incurred by Grantee, which shall be paid by the City, subject to all other terms and condition of this Agreement. Grantee may not request disbursement of CAHF funds from the City until the funds are needed for eligible costs incurred by Grantee.

J. At project completion, any unexpended funds from the Allocation shall be retained by the City. Upon written request from Grantee, the City may consider the reallocation of unexpended funds to eligible projects proposed by Grantee.

K. Pre-Award Costs

Notwithstanding any other provision of this Agreement to the contrary, to ensure the timely start-up or uninterrupted continuation of Grantee programs and activities:

- i. With prior written approval from the City, Grantee may incur pre-award costs eligible for reimbursement from the Allocation up to ninety (90) days prior to the Effective Date of this Agreement.
- ii. Pre-award costs incurred by Grantee must be necessary for the effective and economical conduct of the project, and the costs must be otherwise eligible in accordance with CAHF guidelines.
- iii. Any pre-award costs are incurred at Grantee’s risk. The incurring of pre-award costs by Grantee does not impose any obligation on the City to reimburse such costs in the absence of adequate or available CAHF funding.

PART II. ADMINISTRATIVE PROJECT REQUIREMENTS

1. General Administration

- A. Grantee understands that Allocation is made available through the City of Chattanooga General Fund. To facilitate the receipt of the Allocation, Grantee agrees to comply with all applicable City, State, and HUD requirements.
- B. Grantee will be responsible for administering the Project in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Grantee will maintain program and financial records documenting eligibility, provisions of services, and Grantee's expenses relative to the Project. Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.
- C. In particular, Grantee agrees to maintain a proper financial system, internal controls and policies and procedures to provide reasonable assurance that Grantee is carrying out the Project in compliance with local, state and federal statutes.

- D. Grantee shall be responsible for procedures and sub-contractual arrangements associated with the Project. All procedures shall be conducted in accordance with all federal, state and local laws.
- E. The City may provide technical assistance to Grantee and monitor Grantee's performance against goals and performance standards required herein.
- F. Except with respect to certain pre-award costs permitted under the terms of this Agreement, Grantee will not undertake activities or expend funds until, at minimum:
 - i. Until this Agreement has been signed by all parties; and
 - ii. Grantee has received approval from the City

2. Progress Reports

Grantee shall prepare and submit to the City of Chattanooga's Department of Economic Development ("ED"), status reports regarding progress on the Project and, funding, expenditures, and client data related thereto upon request. ED may request reports as often as weekly, but at minimum with each Grantee request **for payments or reimbursements. The City reserves the right to change reporting requirements, as needed.**

3. Monitoring

- A. The City will monitor the performance of Grantee against the goals and performance standards required herein. Substandard performance as determined by the City in its reasonable discretion, will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by Grantee after being notified by the City, contract termination and all funding may end, and Grantee may be required to relinquish any unused funds.
- B. As used herein, Grantee's "performance shall mean material adherence to all requirements outlined in this document Agreement.
- C. If Grantee fails to adhere to the performance outcomes indicated in Part I of this Agreement, the following actions will be taken:
 - i. A formal letter will be sent from the City reminding Grantee of its obligations and the time frame and outcomes for which Grantee has for getting back on schedule. If the problem is not rectified within thirty (30) days from Grantee's receipt of such letter;
 - a. Technical assistance will be provided to Grantee to assist in helping to correct the deficiency; and
 - b. If the problem still persists after an additional thirty (3) days, provided, however, that if Grantee has commenced cure within such thirty (3) day period and pursue such cure with reasonable diligence, then the cure period shall be extended until Grantee cures such default, then Grantee may be found in breach of this Agreement and all unallocated portions of the Allocation may be withdrawn and reallocated. Thereafter, Grantee shall have no right or authority to request additional funds hereunder and this Agreement may be terminated.

- D. The City may perform a formal monitoring of Grantee, at minimum, one time during the term of this Agreement upon no less than forty-eight (48) hours advance written notice and during Grantee's normal business hours. If Grantee's Project is on-going for more than one (1) year, Grantee may be monitored as frequently as annually and no less than every three years. Areas of concentration will include, but not be limited to:
- i. Programmatic performance
 - ii. Financial management and accountability
 - iii. Project management and progress
 - iv. Organizational ongoing capacity

4. Documentation and Recordkeeping

A. Records to be Maintained

- i. Grantee shall maintain, all records required that are pertinent to the activities to the Project. Such records shall include but not be limited to:
 - a) Records providing a full description of each activity undertaken by Grantee related to the Project;
 - b) Records demonstrating that each activity undertaken by Grantee related to the Projects meets an objective of the CAHF;
 - c) Adequate documentation to support costs charged against the Allocation;
 - d) Records required to determine eligibility of activities
 - e) Financial records as required; All Grantee internal control policies must be written and provided to the City at the time of monitoring visits.
 - f) Records documenting all grievances filed by employees or clients and written documentation as to the means by which such grievances were resolved. Grantee must have written grievance policies for both clients and employees.

- ii. Client Data
Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, signed verification of income statement, or other basis for determining eligibility, racial, ethnic, and gender characteristics, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request during the affordability period and for at least three (3) years following the conclusion of this agreement.
 - a) Records for individual activities subject to the reversion of assets provisions must be maintained for as long as those provisions continue to apply to the activity (records for equipment or real property acquired and or improved with CAHF funds must be retained for 3 years after final disposition); and records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.

- b) Grantee shall furnish and cause each of its own sub-recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts, relating to this Agreement, by the City, or its agents, or other authorized officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

5. Staffing/Organizational Capacity

- A. Grantee must maintain and continue its corporate existence and business as a going concern through the term of this Agreement. Grantee shall retain and assign qualified personnel, as applicable, to carry out its obligations during the term of this Agreement. Any changes in Grantee’s key personnel assigned to the Project are subject to prior approval of the City, which approval shall not be unreasonably withheld, delayed or conditioned. As of the Effective Date, the following staff/key personnel of Grantee are assigned the Project.

Staff Member	Duties

6. City and Grantee Contacts

A. Except as otherwise provided herein, communications and details concerning this Agreement shall be directed to the following representatives of each party:

City of Chattanooga	Grantee
Sandra Gober	
City of Chattanooga	
101 E 11 th Street, Suite 200	
Chattanooga, TN 37402	
Email: Sgober@chattanooga.gov	
Phone: 423.643.7332	

7. Procurement

A. Grantee shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200.318-326 and 24 CFR Part 570.502 and shall subsequently follow, Property Standards as defined by 2 CFR Part 200.313(d) and (e), covering utilization and disposal of property. Grantee shall comply with current City policy concerning the purchase of equipment, which policies shall be provided to Grantee in writing, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

PART III. STANDARD TERMS AND CONDITIONS

1. Governing Law

This Agreement shall be governed by the laws of the State of Tennessee and the Codes of the City.

2. Term

The “term” of this Agreement shall commence on the date when this Agreement is signed by the City’s Administrator of Economic Development and shall end at the earlier of completion of the Project or termination in accordance with Part V hereof. Upon termination or expiration of this Agreement for any reason, Grantee shall return all CAHF funds or other assets of the City, including program income funds, in Grantee’s possession.

3. General Compliance

Grantee agrees to comply with the requirements of the CAHF grants. Grantee also agrees to comply with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement. Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

4. Insurance

A. **Insurance.** The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, provide insurance coverage for real property and equipment acquired or improved with funds provided by the City.

1. The Subrecipient shall purchase and maintain during the life of this Agreement, insurance coverage which will satisfactorily insure Subrecipient against claims and liabilities which arise because of the execution of this Agreement, with the minimum insurance coverage as follows:
 - a. **Commercial General Liability Insurance**, with a limit of \$1,000,000 for each occurrence and \$2,000,000 in the general aggregate.
 - b. **Automobile Liability Insurance**, with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.
 - c. **Worker's Compensation Insurance and Employer's Liability Insurance**, in accordance with statutory requirements, with a limit of \$500,000 for each accident.
 - d. **Professional Liability Insurance**, with a limit of \$1,000,000 for each claim and aggregate.
2. Subrecipient shall not commence work on the goods/non-professional services until a Certificate of Insurance has been submitted to the City showing proof that Subrecipient has obtained the necessary insurance coverage.
3. If any of the above cited policies expire during the life of this Agreement, it is the Subrecipient's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates must specifically cite the following provisions:
 - a. City of Chattanooga, its agents, representatives, officers, directors, officials and employees must be named an Additional Insured under the following policies:
 - i. Commercial General Liability
 - ii. Auto Liability
 - b. Subrecipient's insurance must be primary insurance as respects performance of subject contract.
 - c. All policies, except Professional Liability Insurance, if applicable, waives rights of recovery (subrogation) against City of Chattanooga, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Subrecipient under this Agreement.

5. Limitations of Liability

In no event shall the City be liable for anticipated profits or for incidental or consequential damages. City's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement or from the performance or breach of this Agreement will in no case exceed the amount of reimbursement owed to Grantee from the Allocation. Any action resulting from any breach of this Agreement by City as to the goods or non-professional services delivered must be commenced within one (1) year after the cause of action has accrued.

6. Standard of Care

Grantee shall exercise the same degree of care, skill, and diligence in the performance of services under this Agreement as is ordinarily possessed and exercised by a professional Contractor under similar circumstances in the same area of practice. Grantee makes no other warranty or guarantee, either expressed or implied, as part of this agreement, and all other representations and warranties are hereby expressly disclaimed to the maximum extent permitted by applicable law.

7. Indemnification

Grantee must defend, indemnify and hold harmless the City against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in the goods or services purchased, or from any act or omission of Grantee, its agents, employees or subcontractors. Additionally, Grantee shall defend, indemnify and hold harmless City from and against any and all Third Party claims and liabilities (including, without limitation, reasonable attorneys' fees and costs), regardless of the form of action, arising out of or in connection with a claim that the Services or Software, when used within the scope of this Agreement, infringes, violates or misappropriates a valid third party patent, copyright or other proprietary right, provided that Grantee is notified promptly in writing of the action and Grantee is given the option, at its expense, to control the action and all requested reasonable assistance to defend the same.

8. Proprietary Information Confidentiality Advertising

Grantee must consider all information furnished by the City to be confidential and not disclose any information to any other person, or use the information itself for any purpose other than performing this Agreement, unless Grantee obtains written permission from the City to do so. This paragraph applies to drawings, specifications, or other documents prepared by Grantee for the City in connection with this Agreement. Grantee must not advertise or publish the fact that City has contracted to purchase goods from Grantee, nor is any information relating to the order to be disclosed without the City's written permission. No commercial, financial or technical information disclosed in any manner or at any time by Grantee to the City is to be considered secret or confidential, unless otherwise agreed in writing, and Grantee has no rights against the City with respect to this information except any rights as may exist under patent laws. Grantee recognizes that City's employees have no authority to accept any information in confidence from Grantee.

9. Publicity/Grantee Recognition

Grantee agrees that all published signs, advertisements, descriptions of the sponsorships, literature, brochures, press releases, public notices, flyers, etc, prepared and released by Grantee for, on behalf of, and/or about the Project shall include the following statement and shall appear in the same size letters or type as the name of Grantee:

“City of Chattanooga Department of Economic Development.”

This design concept is intended to disseminate key information regarding the development team as well as Equal Housing Opportunity to the general public. Construction signs shall comply with applicable City codes.

10. Records Retention and Audit Requirements

The term “Grantee” is used interchangeably to describe signatories to contracts, grants, and agreements with the City and applies to reflect the relationship with the City (Engineer, Contractor, Licensee, Supplier, Vendor, Contractor, Grant Recipient, etc.)

- A. All records relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of Grantee, or any of Grantee’s independent contractors, associates, and/or subcontractors, shall be made available for inspection and copying upon written request from the City. Additionally, said records shall be made available upon request by the City to any state, federal or other regulatory authorities and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the time expended by Grantee and its personnel to perform the obligations of this Agreement, and the records of expenses incurred by Grantee in its performance under said Agreement. Grantee shall maintain and protect these records for no less than **seven (7) years** after the completion of the Project, or for any longer period of time as may be required by applicable law, good professional practice, and upon notice during the pendency of any claims or litigation arising from the Project.
- B. The City, or its assigns, may audit all financial and related records (including digital) associated with the terms of this Agreement, including timesheets, reimbursable out of pocket expenses, materials, goods and equipment claimed Grantee. The City may further audit any of Grantee’s records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of this Agreement), or to identify conflicts of interest.
- C. Grantee shall at all times during the term of this Agreement, and for a period of seven (7) years after the expiration or termination of this Agreement, keep and maintain records of the work performed pursuant to this Agreement. This shall include proper records of quotations, contracts, correspondence, invoices, vouchers, timesheets, and other documents that support actions taken by Grantee. All such records shall be maintained in accordance with general accepted accounting principles. Grantee shall, at its own expense, make such records available for inspection and audit (including copies and extracts of records as required).
- D. The obligations of this section shall be explicitly included in any subcontracts or agreements formed between Grantee and any subcontractors or suppliers of goods or nonprofessional services to the extent that those subcontracts or agreements relate to fulfillment of the Contractor’s obligations to the City.
- E. Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the City, unless the audit identifies significant findings that would benefit the City. Grantee will reimburse the City for the total costs of an audit that identifies significant findings that would benefit the City.

- F. This section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the City may have by federal, state, or municipal law, whether those rights, powers, or obligations are express or implied.

11. Termination for Convenience

The City reserves the right to terminate this order or any part of this order at its sole convenience with thirty (30) days written notice. In the event of termination, Grantee must immediately stop all work and immediately cause any of its suppliers or subcontractors to cease any further work. Grantee will be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed before the notice of termination, plus actual direct costs resulting from termination. Grantee will not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Grantee's suppliers or subcontractors which Grantee could reasonably have avoided. Grantee must not unreasonably anticipate the requirements of this order.

12. Termination for Cause

The City may also terminate this Agreement, or any part of this order, with seven (7) days written notice for cause in the event of any default by Grantee, or if Grantee fails to comply with any of the terms and conditions of this Agreement. Late deliveries, deliveries of products which are defective or which do not conform to this Agreement, and failure to provide City, upon request, with adequate assurances of future performance are all causes allowing City to terminate this Agreement for cause. In the event of cancellation for cause, the City is not liable to Grantee for any amount, and Grantee is liable to the City for any and all damages sustained by reason of the default which gave rise to the termination. If it should be determined that the City has improperly terminated this Agreement for a default, the termination is considered a termination for convenience.

13. Dispute Resolution

Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement, or breach thereof, shall be subject to mediation in Chattanooga, Tennessee, in accordance with the following provisions:

- i. The mediation shall be conducted by a mediator mutually acceptable to both parties.
- ii. The parties agree to share equally in the expense of the mediation.
- iii. Such mediation may include Grantee or any other person or entity who may be affected by the subject matter of the dispute.
- iv. Unless the parties agree otherwise, mediation shall be a condition precedent to the exercise of any legal remedy other than a proceeding seeking an immediate injunction or restraining order to protect the rights of a party pending litigation. Notwithstanding the issuance of an injunction or restraining order, or the refusal of a court to issue such an order, the dispute shall continue to be subject to mediation

v.

14. Delay of Performance

Neither the City nor Grantee shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonconforming party. For purposes of this Agreement, such circumstances include abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, or other civil disturbances; sabotage; judicial restraint; discovery of unanticipated hazardous wastes; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Grantee under this Agreement. Should such circumstances occur, the nonconforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. If Grantee is delayed in the performance of the services for more than three hundred sixty-five (365) calendar days, either by the City or circumstances beyond its control, an equitable adjustment to the Allocation amount can be made to compensate for additional costs incurred.

For delays in performance by Grantee caused by circumstances which are within its control, such delays shall be documented and presented to the City at the conclusion of the Project and acknowledged by both the City and Grantee. Information shall be retained by City for a period of seven years and reviewed prior to Grantee selection for future City projects. In the event Grantee is delayed in the performance of Services because of delays caused by City, Grantee shall have no claim against City for damages or contract adjustment other than an extension of time.

15. Waiver

A waiver by either City or Grantee of any breach of this Agreement shall be in writing. City's failure to insist on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege, or City's waiver of any breach does not waive any other terms, conditions, or privileges, whether of the same or similar type.

16. Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

17. Integration

This Agreement represents the entire and integrated agreement between the City and Grantee. All prior and contemporaneous communications, representations, and agreements by Grantee, whether oral or written, relating to the subject matter of this Agreement, as set forth in any purchase order, are hereby incorporated into and shall become a part of this Agreement.

18. Successors and Assigns

The City and Grantee each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party of this Agreement and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this Agreement.

19. Assignment

Neither the City nor Grantee shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Grantee from employing independent contractors, associates, and subcontractors to assist in the performance of the services; however, other agreements to the contrary notwithstanding, in the event Grantee employs independent contractors, associates, and subcontractors to assist in performance of the services, Grantee shall be solely responsible for the negligent performance of the independent contractors, associates, and subcontractors so employed.

20. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Grantee.

21. Relationship of Parties

Nothing contained herein shall be construed to hold or to make the City a partner, joint venturer, or associate of Grantee, nor shall either party be deemed the agent of the other, it being expressly understood and agreed that the relationship between the parties is and shall at all times remain contractual as provided by the terms and conditions of this Agreement.

22. Non-Disclosure

Grantee agrees not to disclose or to permit disclosure of any information designated by the City as confidential, except to the Grantee's employees and independent Grantees, associates, and subcontractors who require such information to perform the services specified in this Agreement.

23. Non-Discrimination

Grantee agrees to comply with all federal, state, and local non-discrimination laws and regulations. Grantee agrees not to discriminate against any participant in this Agreement on the basis of race, color, religion, sex, age or national origin. Grantee further agrees to comply with all federal, state and local laws regarding treatment and accommodations for individuals with disabilities.

24. Drug-Free Workforce

Grantee certifies that it will provide a drug-free workplace and agrees to comply with the applicable requirements of the Drug-Free Workplace Act of 1988.

25. Federal and State Funding

In the event that the Project is funded in whole or in part by Federal or State grants, Grantee agrees to abide by all applicable Federal and State laws, regulations, grant conditions and procedures.

26. Compliance With Laws

The City has entered into this agreement with Grantee relying on its knowledge and expertise to provide the services contracted for herein. As part of that reliance, Grantee represents that he knows and understands the relevant and applicable federal and state laws that apply to the services provided through this Agreement, and agrees to comply with these relevant and applicable federal and state laws.

Grantee understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1988.

27. Amendments

The City or Grantee may amend this Agreement at any time provided that such amendments are executed in writing and signed by a duly authorized representative of both parties. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Grantee from its obligations under this Agreement.

28. Dissolution of Organization

In the event Grantee should cease to be a nonprofit entity, liquidate, dissolve, or cease to operate, Grantee agrees to assign and transfer to the City of Chattanooga any unexpended funds awarded by the City, and all its rights, title and interest in real property that was acquired and/or improved using CAHF funds or other funds provided by the City, under this Agreement. The City shall only pay Grantee for services performed and documented, eligible costs incurred, prior to dissolution

29. Closeout

Grantee's obligations to the City shall not end until all close-out requirements are completed. Close-out requirements shall include, but are not limited to: submitting, completion forms, making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to Grantee), and determining the custodianship of records.

30. Counterparts

This Agreement may be executed in one or more counterparts, all of which together will constitute only one (1) Agreement.

31. Authority

Each party represents to the other that it has taken all necessary action to authorize the execution and delivery of this Agreement and that the person signing on its behalf below is duly authorized to so execute this Agreement on such party's behalf.

32. Non-boycott of Israel

Contractor certifies that it is not currently engaged in and will not for the duration of the Contract engage in a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

PART IV. OTHER REQUIREMENTS

1. Fair Housing

Grantee agrees that it will conduct and administer CAHF activities in conformity with Pub. L. 88-352, "Title VI of the Civil Rights Act of 1964", and with Pub. L. 90-284 "Fair Housing Act", and that it will affirmatively further fair housing. One suggested activity is to use the fair housing symbol and language in Grantee publications and/or advertisements. Grantee shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions.

2. Section 504 Compliance

No otherwise qualified individual with disabilities shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This includes, but is not limited to, programs and/or activities related to housing, employment, and the delivery of services.

Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

3. Affirmative Action

- A.** Grantee agrees that it shall be committed to carry out activities in pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966.
- B.** Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or familial status. Grantee will take affirmative action to endure that applicants are reviewed fairly, and that all employees are treated equally and without regard to their race, color, religion, sex, national origin, or familial status. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or advertising; lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
- C.** Grantee agrees to make efforts to encourage the use of minority and women-owned business enterprises in connection with funded activities and to comply with the City's Minority and Women Owned Business Outreach Plan.
- D.** As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans,

Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Grantee may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

4. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

5. Conflict of Interest

A. Grantee agrees to abide by the following:

- i. Grantee shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by CAHF funds.
- ii. No employee, officer or agent of Grantee shall participate in the selection, or in the award, or administration of, a contract supported by CAHF funds if a conflict of interest, real or apparent, would be involved.
- iii. No covered persons who exercise or have exercised any functions or responsibilities with respect to assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, subcontract, or agreement with respect to the assisted activity, or with respect to the proceeds from the assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, Grantee, or any designated public agency.

PART V. SUSPENSION AND TERMINATION

- A.** In addition to the termination provisions set forth above, the City may suspend or terminate this Agreement if Grantee materially fails to comply with any terms of this Agreement, (including, but not limited to), the following:
- i. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and City guidelines, policies or directives as may become applicable at any time;
 - ii. Failure, for any reason, of Grantee to fulfill in a timely and proper manner its obligations under this Agreement;
 - iii. Ineffective or improper use of funds provided under this Agreement; or
 - iv. Submission by Grantee to the City reports that are incorrect or incomplete in any material respect.
 - v. Failure by Grantee to provide the Office of Housing and Community Investment with a plan of action to resolve any audit findings or monitoring findings within the specified time period as stated in the Agency's monitoring letter.
- B.** Grantee agrees that if it materially fails to comply with any term of this Agreement, including the timely completion of activities as described in the timetable contained in the Statement of Work at Part I, or the provisions of Part I, the City may temporarily withhold cash payments pending correction of the deficiency, or wholly or partly suspend or terminate the current award for Grantee's Project
- C.** Notwithstanding the above, Grantee shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by Grantee, and the City, in addition to any other remedies it may have at law or equity, may withhold any payments to Grantee for the purposes of set off until such time as the exact amount of damages is determined.
- D.** Notwithstanding any termination or suspension of this Agreement, Grantee shall not be relieved of any duties or obligations imposed on it under any parts of this Agreement with respect to funds previously disbursed.
- E.** Any termination or suspension by the City pursuant to this Article V shall only be effective after thirty (30) days written notice identifying the alleged default or breach by Grantee with specificity, and Grantee shall be entitled to cure such default or breach within such thirty (30) day period; provided, however, that if Grantee has commenced cure within such thirty (30) day period and pursues such cure with reasonable diligence, then the cure period shall be extended until Grantee cures such default

PART VI. NOTICES

Whenever either party required to give notice hereunder, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CITY:

Richard Beeland, Administrator
Department of Economic Development
101 E. 11th Street, Suite 200
Chattanooga, Tennessee 37402

FOR GRANTEE:

Martin Guilfoil, President and ECO
Chattanooga Neighborhood Enterprise, Inc.
1500 Chestnut Street, Suite 102
Chattanooga, TN 37408

(Signatures on following page)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: THE CITY OF CHATTANOOGA, TENNESSEE, through its HEB signing by and through its ED Administrator, and CNE, signing by and through its President and Chief Executive Officer duly authorized to execute the same.

City:

CITY OF CHATTANOOGA, TN

Richard Beeland, Administrator – Department of Economic Development

Date

Grantee:

Signature

Martina Guilfoil, President and CEO

Date



City Of Chattanooga: Payment In Lieu of Taxes (PILOT) Annual Report to HEB

The Affordable Housing PILOT Program is a financial incentive designed to encourage multi-family rental development for low-to-moderate income households.

September 16, 2024

SUMMARY OF PILOT PROJECTS

Type Development	Development Name	Developer	Property Address	30% AMI	50% AMI	60% AMI	80% AMI	Market Rate	Total Units	Estimated Investment	PILOT Start Year	PILOT End Year
Renovation	Campbell Ridge/ Battery Heights	Alco Properties, Inc	3401 Campbell Street	70		18	54	0	142	\$17,000,000	2022	2036
Renovation	Bayberry	Alco Properties, Inc	2300 Windsor Street	134		29	0	0	163	\$13,000,000	2018	2032
New Construction	Chestnut Flats	Elimington/ECG Chestnut Group, LLC	2108 Chestnut Street	87		112	0	0	199	\$22,000,000	2019	2033
Renovation	Patten Towers	Elimington Capital	1 East 11th Street	0		221	0	0	221	\$34,000,000	2020	2044
Renovation	Ridgeway Apartments	Vitus Group	1230 Poplar Street	0		120	0	0	120	\$16,000,000	2019	2033
Renovation	Jaycee Towers	Wishrock Group/Chattanooga Housing Authority	500 W. MLK BLVD.	0		105	70	0	175	\$16,000,000	2018	2058
New Construction	Reserve at Mtn. Pass	LDG Development	4905 Central Avenue	60		120	60	0	240	\$52,000,000	2024	2040
New Construction	Market City Center	The Simpson Organization (TSO)8	728 Market Street	0		0	25	100	125	\$28,000,000	2017	2031
New Construction	1400 Chestnut	Mount Auburn, LLC	1400 Chestnut Street	0		0	40	160	200	\$23,000,000	2017	2030
Renovation/ Conversion	Maclellan Building	Heritage-Maclellan Apts, LLC	721 Broad Street	0		0	18	72	90	\$10,500,000	2016	2034
New Construction	Vue On 5th	Walk2Campus	500 Lindsay Street	0		0	13	51	64	\$7,500,000	2016	2030
New Construction	Shallowford Pointe	DGA	6402 Shallowford Rd			96			96	\$32,000,000	2024	2059
New Construction	Mai Bell II	Chattanooga Neighborhood Enterprise/CNE	1715 Union Avenue	0	2	7	26	12	47	\$5,700,000	2023	2032
New Construction	Bailey Ave	Chattanooga Neighborhood Enterprise/CNE	2003 Bailey Ave		2	5	25		32	\$5,900,000	2025	2044
New Construction	Lyerly Apartments	Chattanooga Neighborhood Enterprise/CNE	1805 S. Lyerly			4	12		16	\$3,888,500	2025	2044
New Construction	Milltown Apartments	Chattanooga Neighborhood Enterprise/CNE	2461 E. 18th Street		2	6	26		34	\$6,612,500	2025	2044
New Construction	AIM/Espero	Espero Chattanooga LP	1815 E. Main St.	19		41			60	\$21,532,500	2025	2055
	*Under development			370	6	884	369	395	2024	\$314,633,500		
				18%	0.3%	44%	18%	20%	100%			



RESOLUTION: #32021

- PILOT framework ties tax-abatement directly to the affordable units being provided.
- Sets a per-unit abatement based on the difference between market-rate rent and the affordable rent.
- Market-rate rents are zip-code based, which allows the program to be tailored more closely to localized market conditions

Adopted: March 26, 2024



RESOLUTION: #28783

Fifty (50) percent of total units of the PILOT development must be affordable to households with incomes no greater than 80% of the Area Median Income (AMI) and located within Chattanooga City limits

Adopted: September 20, 2016



Milltown Apartments

- **Information:**
- **Address: 2461 E. 18th Street**
- **Developer: Chattanooga Neighborhood Enterprise, Inc.**
- **Development Status: Under development**

\$6.6M	34	26	1/22/2024	12/2024	12/2026	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2025-2044 + HOME – 20 Yrs.



Lyerly Street Apts.

- Information:
- Address: 1805 S. Lyerly Street
- Developer: Chattanooga Neighborhood Enterprise, Inc.
- Development Status: Under development

\$3.8M	16	12	3/18/2024	9/2024	12/2025	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2025-2044 + HOME – 20 Yrs.



Bailey Avenue

- Information:
- Address: 2003 Bailey Avenue
- Developer: Chattanooga Neighborhood Enterprise, Inc.
- Development Status: Under development

\$5.9M	32	25		7/2024	12/2025	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2025-2044 + HOME – 20 Yrs.



Shallowford Pointe

- Information:
- Address: 6204 Shallowford Rd
- Developer: DGA Shallowford PL
- Development Status: Under development

\$32M	96	96	2/19/2024	3/2024	12/2025	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2024-2059



AIM - Espero

- Information:
- Address: 1815 E. Main St.
- Developer: Espero Chattanooga, LP
- Development Status: Under development

\$21.5M	60	60	6/17/2024	9/2024	12/2025	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2024-2055



Mai Bell II

- Information:
- Address: 1715 Union Avenue
- Developer: Chattanooga Neighborhood Enterprise, Inc.
- Development Status: **Completed and leasing**

\$5.7M	47	26	2/2021	6/2021	12/2023	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete (Target)	2022-2031 + HOME – 20 Yrs.



Reserve at Mountain Pass

Information:

- Address: 4905 Central Ave
- Developer: LDG Development
- Development Status: First units leased January 2024, 61%

\$52M	240	240	2/2021	6/2022	Spring 2023	December 2023	PILOT Period
Investment	Total	PILOT	HEB	Construction	First Building	Construction	2024 - 2040



Battery Heights Apartments now Campbell Ridge Apartments Information:

- Addresses: 3401 Campbell Street
- Developer: Alco Properties, Inc.
- Development Status: **Renovations completed June 2023, name changed to Campbell Ridge Apartments**
- Compliance Status: **Compliant, per THDA/LIHTC**

Filing

\$5.5 M	142	142	12/2020	9/2021	October 2022	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovation Start	Renovation Complete (Target)	2022 - 2035



Bayberry Apartments

Information:

- Addresses: 2300 Windsor Street, 2330 Wilson Street, 1101 Arlington Avenue
- Developer: Alco Properties, Inc.
- Development Status: Completed Renovation
- Compliance Status: **Compliant, per THDA/LIHTC Filing**

\$12.2 M	163	163	10/2017	1/2017	12/2017	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovation Start	Renovation Complete	2018-2032



Chestnut Flats

Information:

- Address: 2108 Chestnut Street
- Developer: Elmington Chestnut Group, LP
2019 transferred to Mount Auburn
March 2022 transferred to Starwood Realty
- Development Status: Completed New Construction
- Compliance Status: **Compliant, per 2024 Annual THDA/LIHTC Filing**

\$22 M	199	199	10/2016	6/2021	October 2019	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete	2019 - 2033



Patten Towers

Information:

- Address: 1 East 11th Street
- Developer: Elmington/Patten Affordable Partners, LP
- Development Status: Renovation Complete
- Compliance Status: **Compliant per 2024 THDA/LIHTC Filing**

\$34 M	240	240	12/2018	2/2019	March 2021	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovation Start	Renovation Complete	2020 - 2044
					Extended by March 2021 fire	



Ridgeway Apartments

Information:

- Address: 1230 Poplar Street
- Developer: VITUS Group
- Development Status: Completed Renovation
- Compliance Status: **Compliant per 2023 THDA/LIHTC Filing**

\$16 M	120	120	9/2018	12/2018	12/2019	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovation Start	Renovation Complete	2019 - 2033



RESOLUTION: #27968

Twenty (20) percent of total units of the PILOT development must be affordable to households with incomes no greater than 80% of the Area Median Income (AMI) and located within Chattanooga City limits

Adopted: August 5, 2014



Market City Center

Information:

- Address: 728 Market Street
- Developer: The Simpson Organization
- Development Status: Completed New Construction
- Compliance Status: **Compliant, per review of annual report**

\$28 M	125	25	7/2015	9/2015	9/2017	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete	2017 - 2031



1400 Chestnut

Information:

- Address: 1400 Chestnut Street
- Developer: Mount Auburn
- Development Status: Completed New Construction
- Compliance Status: **Compliant, per HCI staff review of annual report**

\$25 M	200	40	4/2015	11/2016	8/2019	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Construction Start	Construction Complete	2017 - 2030



Maclellan Building

Information:

- Address: 721 Broad Street
- Developer: Heritage-Maclellan
- Status: Completed Renovation
- Compliance Status: **Compliant, per HCI staff review August 7, 2023**

\$10 M	89	18	4/2015	6/2015	7/2017	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovation Start	Renovation Complete	2016 - 2034



Vue On 5th

Information:

- Address: 500 Lindsey Street
- Developer: Walk2Campus
- Development Status: Completed New Construction
- Compliance Status: **Compliant with 11 units, 2 over income, per HCl staff review July 2023.**

\$7 M	64	13	2/2015	6/2015	9/2019	PILOT Period
Investment	Total Units	PILOT Units	HEB Approval	Renovations Start	Renovations Complete	2016 - 2030



* Passenger Flats

Information:

- Address: 1351 Passenger Street
- Developer: Choo-Choo Partners, LP
- Status: Completed Renovation
- Compliance Review: February 2018

Updates:

- * PILOT terminated on project by developer in 2018 due to their desire to have an all market-rate property

2015

Start Year

\$4M

Investment

97

Total Units

20

PILOT Units

2018

End Year



RESOLUTION: #23253

PILOT project must be located within downtown footprint

Adopted: January 8, 2002



PILOT Projects: RESOLUTION: #23253, Adopted 2002

Information:

- Bread Factory Lofts
 - 1615 Cowart Street
 - End Year: 2018
- MK
 - 1419 Market Street
 - End Year: 2021
- St. John's Apartments
 - 1280 Market Street
 - End Year: 2020
- UTC 2
 - 615 Lindsay Street
 - End Year: 2024
- UTC 3
 - 863 McCallie Avenue
 - End Year: 2024
- Walnut Commons
 - 212 Walnut Street
 - End Year: 2025
- Frazier Place
 - 330 Frazier Avenue
 - End Year: 2018



Jaycee Towers

Information:

- **Address: 500 West M.L.K Boulevard**
- **Developer: Wishrock Group/ PILOT via State of TN**
- **PHA Statue**
- **Development Status: Completed Renovation**
- **Compliance Status: Project through the Chattanooga Housing Authority (CHA)**

2017

Start Year

\$16M

Investment

175

Total Units

175

PILOT Units

2057

End Year



City Of Chattanooga: Affordable Housing Fund

The Chattanooga Affordable Housing Fund (CAHF) leverages Federal, State, and private dollars to incentivize expanded availability of and access to affordable rental and homeownership for households in Chattanooga, earning up to 120% of area median income (AMI).

Funding is made available for:

- Creating or preserving affordable rental units and housing for homeownership
- Increasing access to homeownership through collaborative homebuyer programs,
- Providing resources to assist vulnerable households in accessing and or retaining housing
- Leveraging funding by working with for-profit and nonprofit entities - home builders, Realtors, foundations, financial institutions, etc., and
- Exploring various tools to achieve the desired outcomes, including but not limited to: policy changes, providing access to resources to assist with wealth building and retention, reducing, and eliminating barriers to producing/preserving/ or accessing affordable housing.

City Of Chattanooga Affordable Housing Fund (CAHF) Funded Activities



APPLICANT	Amount	PROJECT	PURPOSE	APPROVAL DATE	STATUS
Chattanooga Housing Authority	\$400,000	Emerald Village Renovation	Preserve 44 units of affordable housing	8/28/2019	Complete 2020
Habitat for Humanity	\$196,546	Sites for Development of Homeowner Housing	Acquisition of 15 lots in Village at Alton Park	8/28/2019	Acquisitions complete 9 homes constructed
CALEB	\$25,000	Study	Exploring potential for community land trusts	1/22/2020	Complete
Adamson Developers	\$240,000	Affordable Rental Development	Construction of 12 rental units in E. Chattanooga	5/6/2022	Project stalled, funding rescinded
Chattanooga Neighborhood Ent.	\$55,000	Study	Housing Affordability Analysis	6/27/2022	Complete
Chattanooga Neighborhood Ent.	\$500,000	Affordable Rental Development	Construction of 24 units at 621 E. ML King	5/6/2022	Under construction
Total	\$1,416,546				

Thank You

**Department of Economic Development
Housing & Community Investment Division**





Jason E. Mumpower
Comptroller

Report On Debt Obligation

Receipt Date: 08/29/2024

Entity and Debt Information

Entity Name

The Health Educational Facility Board of the City of Chattanooga

Entity Address

Chattanooga, Tennessee

Debt Issue Name

Health System Revenue Bonds (Erlanger Health), Series 2024

Debt Issue Face Amount

\$319,410,000.00

Face Amount Premium or Discount?

Premium

Premium Amount

\$33,429,249.30

Tax Status

Tax - Exempt

Interest Type

True Interest Cost (TIC)

True Interest Cost (TIC)

4.428088%

Debt Obligation

Bond

Moody's Rating

Unrated

Standard & Poor's Rating

A

Fitch Rating

A-

Other Rating Agency Name

N/A

Other Rating Agency Rating

N/A

Security

Revenue

Type of Sale Per Authorizing Document

Negotiated Sale

Dated Date

8/29/2024

Issue/Closing Date

8/29/2024

Final Maturity Date

12/1/2054

Debt Purpose

Purpose	Percentage	Description
Other	100%	healthcare
Education	0%	N/A
General Government	0%	N/A
Refunding	0%	N/A
Utilities	0%	N/A

Cost of Issuance and Professionals

Does your Debt Issue have costs or professionals?

Yes

Description	Amount	Recurring Portion	Firm Name
Financial Advisor Fees	\$515,789.11	N/A	Kaufman Hall
Legal Fees - Bond Counsel	\$225,000.00	N/A	Kutak Rock LLP
Legal Fees - Issuer's Counsel	\$9,020.00	N/A	Husch Blackwell LLP
Legal Fees - Trustee's Counsel	\$12,500.00	N/A	Adams and Reese LLP
Underwriter's Discount %	5.307915%	N/A	Morgan Stanley & C. LLC
Underwriter's Counsel	\$175,000.00	N/A	Robinson Bradshaw
Bank's Counsel	\$8,500.00	N/A	Bass, Berry & Sims
Auditor's Fee	\$40,493.00	N/A	PYA, P.C.
Verification Agent	\$2,000.00	N/A	Causey Demgen & Moore
Trustee Fees	\$7,500.00	N/A	U.S. Bank Trust Company, N.A.
Escrow Agent	\$1,750.00	N/A	The Bank of New York Mellon, National Association
Printing and Advertising Fees	\$7,185.00	N/A	ImageMaster
TOTAL COSTS	\$1,004,737.11		

Maturity Dates, Amounts, and Interest Rates

Year	Amount	Interest Rate
2033	\$1,340,000.00	5.00
2034	\$75,000,000.00	5.00
2035	\$6,170,000.00	5.00
2036	\$6,475,000.00	5.00
2037	\$7,025,000.00	5.00
2038	\$8,175,000.00	5.00
2039	\$8,675,000.00	5.00
2040	\$9,145,000.00	5.25
2041	\$9,655,000.00	5.25
2042	\$10,190,000.00	5.25
2043	\$10,750,000.00	5.25
2044	\$11,345,000.00	5.25
2049	\$66,810,000.00	5.25
2054	\$88,655,000.00	5.25

See final page for Submission Details and Signatures

Submission Details and Signatures

Is there an official statement or disclosure document, as applicable, that will be posted to EMMA: <https://emma.msrb.org/>?

Yes

Name and title of individual responsible for posting continuing disclosure information to EMMA

Lynn DeJaco, Chief Financial Officer, Erlanger Health

Signature - Chief Executive or Finance Officer of the Public Entity

Name

Hicks Armor

Title/Position

Chair

Email

pnoblett@chattnooga.gov

Alternate Email

N/A

Signature - Preparer (Submitter) of This Form

Name

Thomas P. Lauth

Title/Position

Partner

Email

tom.lauth@kutakrock.com

Alternate Email

N/A

Relationship to Public Entity

Bond Counsel

Organization

Kutak Rock LLP

Verification of Form Accuracy

By checking the box below as the signing of this form, I attest the following:

1. I certify that to the best of my knowledge the information in this form is accurate.
2. The debt herein complies with the approved Debt Management Policy of the public entity.
3. If the form has been prepared by someone other than the CEO or CFO, the CEO or CFO has authorized the submission of this document.

Verify Form Accuracy

Date to be Presented at Public Meeting

09/16/2024

Date to be emailed/mailed to members of the governing body

09/13/2024

Final Confirmation:

I hereby submit this report to the Division of Local Government Finance of the Tennessee Comptroller of the Treasury and understand my legal responsibility to: File this report with the members of the governing body no later than 45 days after the issuance or execution of the debt disclosed on this form. The Report is to be delivered to each member of the Governing Body and presented at a public meeting of the body. If there is not a scheduled public meeting of the governing body within forty-five (45) days, the report will be delivered by email or regular US mail to meet the 45-day requirement and also presented at the next scheduled meeting.

FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT

among

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE,

ESPERO CHATTANOOGA LP

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee

Dated as of

_____, 2024

pertaining to:

\$10,700,000

The Health, Educational and Housing Facility Board of
the City of Chattanooga, Tennessee
Collateralized Multifamily Housing Bonds
(Espero Chattanooga Project)
Series 2023

FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT

This FIRST AMENDMENT TO TRUST INDENTURE AND LOAN AGREEMENT (this “Amendment”) dated as of _____ 1, 2024 is among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, a public nonprofit corporation and instrumentality of the State of Tennessee (the “Issuer”), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (together with any successor trustee under the Indenture as defined below and their respective successors and assigns, the “Trustee”), and ESPERO CHATTANOOGA LP, a Tennessee limited partnership (the “Borrower”).

WITNESSETH:

WHEREAS, the Issuer previously issued its \$10,700,000 Collateralized Multifamily Housing Bonds (Espero Chattanooga Project), Series 2023 (the “Bonds”), pursuant to that certain Trust Indenture (the “Original Indenture”), dated as of December 1, 2023, between the Issuer and the Trustee;

WHEREAS, the proceeds of the Bonds were loaned to the Borrower pursuant to that certain Loan Agreement dated as of December 1, 2023 between the Issuer and the Borrower (the “Original Loan Agreement”) to pay a portion of the cost of acquiring, construction and equipping a multifamily residential rental facility located in Chattanooga, Tennessee (the “Project”);

WHEREAS, in connection with the remarketing of the Bonds, the Borrower desires to make certain modifications to the Original Indenture and the Original Loan Agreement; and

WHEREAS, the Original Indenture provides that the Original Indenture and the Original Loan Agreement may be modified with the consent of the Issuer, the Holders of all of the Bonds, the Borrower, the Investor Limited Partner and the Trustee;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree that the Original Indenture and the Original Loan Agreement shall be amended as follows:

Section 1. Defined Terms. Capitalized terms used herein but not otherwise defined herein shall have the meanings given to them in the Original Indenture.

Section 2. Amendments to Indenture.

(a) The following defined term shall be added to Section 1.01 of the Indenture:

“**Second Mandatory Tender Date**” means a date selected by Borrower with notice to the Holders and the Trustee, but not earlier than _____, 20__ [expected conversion date] and not later than _____, 20__ [forward commitment maturity date]. If no notice is provided by the Borrower, the “Second Mandatory Tender Date” means _____, 20__ [forward commitment maturity date].

(b) The following defined terms in Section 1.01 of the Indenture shall be amended and restated as follows:

“**Interest Payment Date**” means (a) April 1 and October 1 of each year beginning April 1, 2025, (b) each Mandatory Tender Date, (c) the Maturity Date and (d) the date of acceleration of

the Bonds. In the case of insufficient funds to pay the purchase price on the Bonds following Mandatory Tender on the Initial Mandatory Tender Date or Second Mandatory Tender Date, “Interest Payment Date” also means the first Business Day of each month as provided in Section 2.02(b) hereof. In the case of a payment of defaulted interest, “Interest Payment Date” also means the date of such payment established pursuant to Section 2.05 hereof.

“**Mandatory Tender Date**” means (a) the Initial Mandatory Tender Date, (b) the Second Mandatory Tender Date and (b) the last day of each Remarketing Period.

(c) Within the defined term “Notice Address” in Section 1.01 of the Indenture, the address of the Investor Limited Partner shall be amended and restated as follows:

c/o RBC Community Investments, LLC
600 Superior Avenue, Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel

with a copy to:

Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett Applegate

(d) Within the defined term “Notice Address” in Section 1.01 of the Indenture, the address of the Lender shall be amended and restated as follows:

Cadence Bank
1049 Highland Colony Parkway
Ridgeland, Mississippi 39157
Attention: Jason Duren

Jones Walker LLP
420 North 20th Street, Suite 1100
Birmingham, Alabama 35203
Attention: Kelly B. Lewis and Brandon D. Hughey

(e) The first sentence of Section 6.02 of the Indenture shall be amended and restated as follows:

If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Borrower, the Lender, the Remarketing Agent and the Investor Limited Partner, within five days after the Trustee has notice of the Event of Default pursuant to Section 5.02(f) hereof.

(f) The last paragraph of Section 6.03 of the Indenture shall be amended and restated as follows:

The Investor Limited Partner and the Lender shall be entitled (but not obligated) to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the

Investor Limited Partner or the Lender 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.

(g) Section 7.04 of the Indenture shall be amended and restated as follows:

Section 7.04 Consent of Borrower, Lender and Investor Limited Partner.

Anything contained herein to the contrary notwithstanding, any Supplemental Indenture executed and delivered in accordance with this Article VII which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower, the Lender and the Investor Limited Partner shall have consented in writing to the execution and delivery of that Supplemental Indenture.

(h) Section 10.01 of the Indenture shall be amended and restated as follows:

Without the consent of or notice to the Holders, the Issuer, the Borrower, the Lender, the Investor Limited Partner and the Trustee may enter into or consent to, as applicable, any amendment, change or modification of the Loan Agreement, the Note or the Land Use Restriction Agreement, as may be required (a) by the provisions of the Note, the Loan Agreement, the Land Use Restriction Agreement or this Indenture, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note or the Land Use Restriction Agreement, or (c) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 7.02 hereof.

(i) Section 11.01 of the Indenture shall be amended and restated as follows:

With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Remarketing Agent, the Borrower, the Lender, the Investor Limited Partner and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Remarketing Agent, the Borrower, the Lender, the Investor Limited Partner and the Holders of the Bonds, as provided herein.

(j) The first four paragraphs of Section 11.03 of the Indenture shall be amended and restated as follows:

Except as provided in Section 6.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is in writing and duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Borrower, the Lender, the Investor Limited Partner, the Remarketing Agent and the Trustee shall be delivered to their respective Notice Address.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee, the Borrower, the Lender or the Investor Limited Partner to one or either of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Limited Partner, the Lender, the Remarketing Agent and the Rating Agency may, by notice given hereunder, designate any further

or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or Persons to whose attention the same shall be directed.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Borrower, the Lender, the Investor Limited Partner or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

Section 3. Amendments to Loan Agreement.

(a) The second sentence of Section 2.2(c) of the Loan Agreement is hereby amended and restated as follows:

The general partner of the Borrower is Espero GP 2, LLC, a Tennessee limited liability company (the “General Partner”).

(b) Section 2.2(d) of the Loan Agreement is hereby amended and restated as follows:

(d) The General Partner (1) is a limited liability company, duly organized under the laws of the State of Tennessee, and (2) has the requisite legal authority to become and to act as the General Partner of the Borrower.

(c) The last paragraph of Section 5.2 of the Loan Agreement is hereby amended and restated as follows:

Notwithstanding anything to the contrary contained herein or in any other Borrower Document, the following shall be permitted and shall not require the prior written approval of the Issuer, the Lender or the Trustee: (a) the admission of tax credit investors designated by the Authorized Borrower Representative in accordance with the Indenture, as partners in the Borrower, which is expected to occur on the date of the closing of the Mortgage Loan, (b) the transfer by the Investor Limited Partner of its interest in the Borrower in accordance with the terms of the Borrower's Organizational Documents, (c) the removal of the General Partner or the class B Limited Partner in accordance with Borrower's Organizational Documents and the replacement thereof with the Investor Limited Partner or any of its affiliates, (d) the transfer of ownership interests in the Investor Limited Partner, the General Partner, the special limited partner of the Borrower or the class B limited partner of the Borrower, (e) the transfer of the general partner interest from Espero GP Corporation to Espero GP 2, LLC, (f) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner in the Borrower to the Borrower's general partner, class B limited partner or any of their affiliates (as may be permitted under the Borrower's Organizational Documents), (g) any amendment to the Organizational Documents to memorialize the admission of the Investor Limited Partner, or the transfers or removal described above and (h) transfers in connection with the PILOT Lease. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents

Section 4. Amendment to Note. The definition of “Interest Payment Dates” in the Note shall be amended to mean April 1 and October 1 of each year beginning April 1, 2025.

Section 5. Full Force and Effect. Except as expressly modified as stated above, all provisions of the Original Indenture and the Original Loan Agreement shall remain unaffected and in full force and effect and are hereby ratified and confirmed in all respects.

Section 6. Counterparts; Electronic Signature. This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. To the fullest extent permitted by applicable law, facsimile or electronically transmitted signatures shall constitute original signatures for all purposes hereunder and under the Original Indenture and the Original Loan Agreement.

Section 7. No Individual Liability. No covenant or agreement contained in this Amendment shall be deemed to be the covenant or agreement of any present, past or future member, agent, or employee of the Issuer or the Trustee, in his or her individual capacity, and neither the members of the Issuer or the Trustee, nor any official, agent or employee of the Issuer or the Trustee, shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of this Amendment.

Section 8. Severability. If any provisions of this Amendment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 9. Captions. The captions or headings in this Amendment are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Amendment.

Section 10. Governing Law. The laws of the State of Tennessee shall govern the construction and enforcement of this Amendment, without regard to conflict of laws principles.

Section 11. Effectiveness. This Amendment shall be effective as of the date of execution and delivery by the parties hereto and satisfaction of the conditions to amendment set forth in the Original Indenture.

Section 12. Successors and Assigns; Binding Effect. This Amendment shall inure to the benefit of, and shall be binding upon, the Issuer and the Trustee and their respective successors and assigns, and shall be binding on the holders from time to time of the Bonds who become holders of the Bonds on or after the effective date of this Amendment.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Trust Indenture and Loan Agreement to be executed on its behalf by its duly authorized representatives as of the date first above written.

ISSUER:

**THE HEALTH, EDUCATIONAL AND HOUSING
FACILITY BOARD OF THE CITY OF
CHATTANOOGA, TENNESSEE**

By: _____

Name: _____

Title: _____

TRUSTEE:

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Name: _____
Title: _____

BORROWER:

ESPERO CHATTANOOGA LP,
a Tennessee limited partnership

By: Espero GP 2, LLC,
a Tennessee limited liability company,
its General Partner

By: _____
Anna Protano-Biggs
President

By: Espero SLP, LLC,
a Tennessee limited liability company,
its Class B Limited Partner

By: _____
Kim Buche
Authorized Representative

The Investor Limited Partner hereby consents to this Amendment.

INVESTOR LIMITED PARTNER:

RBC COMMUNITY INVESTMENTS, LLC

By: _____

Name: _____

Title: _____

45372436.4

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED
NO. R-1

\$10,700,000

UNITED STATES OF AMERICA
STATE OF TENNESSEE

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD
OF THE CITY OF CHATTANOOGA, TENNESSEE
COLLATERALIZED MULTIFAMILY HOUSING BONDS
(ESPERO CHATTANOOGA PROJECT)
SERIES 2023

INTEREST RATE:	MATURITY DATE:	DATED:	CUSIP
As described below	December 1, 2043	_____, 2024	[162404 DP9]

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TEN MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$10,700,000)

SECOND MANDATORY TENDER DATE: A date selected by Borrower with notice to the Holders and the Trustee, but not earlier than _____, 20__ [expected conversion date] and not later than _____, 20__ [forward commitment maturity date].

The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the “**Issuer**”), a public nonprofit corporation and an instrumentality of the City of Chattanooga, Tennessee for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount specified above on the Maturity Date specified above (subject to tender as set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the aforesaid Interest Rate on (a) April 1 and October 1 of each year beginning April 1, 2025, (b) each Mandatory Tender Date, (c) the Maturity Date, and (d) the date of acceleration of the Bonds (the “**Interest Payment Dates**”) until the principal amount is paid or duly provided for. This Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date, or, if no interest has been paid or provided for, from the date of initial delivery (the “Closing Date”).

This Bond shall bear interest at a rate per annum equal to the Interest Rate. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

For purposes of calculating such interest:

“**Interest Rate**” means _____% per annum to and not including the Second Mandatory Tender Date and thereafter, the applicable Remarketing Rate.

The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently **U.S. Bank Trust Company, National Association** (the “**Trustee**”). Interest is payable on each Interest Payment Date by check or draft mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (the “**Holder**”) at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date (the “**Regular Record Date**”) on the registration books for this issue maintained by the Trustee, as registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than 10 days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE OR CREATE A DEBT OR OBLIGATION, EITHER GENERAL OR SPECIAL, OR LIABILITY OR MORAL OBLIGATION OF THE CITY OF CHATTANOOGA (THE “**CITY**”), THE STATE OF TENNESSEE (THE “**STATE**”) OR ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR OF ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE ISSUER (WHICH HAS NO TAXING POWER) BUT ARE LIMITED REVENUE OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE A VALID CLAIM ONLY AS AGAINST THE PLEDGED REVENUES, IS NOT A GENERAL OBLIGATION OF THE CITY, THE STATE, OR ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE, OR ANY COUNTY, MUNICIPALITY, POLITICAL SUBDIVISION OF THE STATE OR THE ISSUER

IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS.

NO MEMBER, DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY MEMBER, DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

This Bond is one of a duly authorized issue of The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee Collateralized Multifamily Housing Bonds (Espero Chattanooga Project), Series 2023 (the “**Bonds**”), issuable under the Trust Indenture dated as of December 1, 2023 between the Issuer and the Trustee, as supplemented and amended by a First Amendment to Trust Indenture and Loan Agreement dated as of _____, 2024 among the Issuer, the Trustee and the other parties thereto (as supplemented and amended, the “**Indenture**”), aggregating in principal amount \$10,700,000 and used for the purpose of financing a loan (the “**Loan**”) to be made to Espero Chattanooga LP, a Tennessee limited partnership (the “**Borrower**”). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, constructing, equipping and improving the Project, as defined in the Indenture, as further provided in the Loan Agreement dated as of December 1, 2023 between the Issuer and the Borrower, as supplemented and amended by a First Amendment to Trust Indenture and Loan Agreement dated as of _____, 2024 among the Issuer, the Borrower and the other parties thereto (as supplemented and amended, the “**Loan Agreement**”). The Bonds are special limited obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the State of Tennessee, and particularly Part 3, Chapter 101, Title 48 of the Tennessee Code Annotated, as amended (the “**Act**”), and a resolution duly enacted by the Board of Directors (the “**Governing Body**”) of the Issuer.

The Bonds are, prior to their stated maturity, subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Bonds. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the tender date

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms

and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Loan Agreement to cause the Lender (as defined in the Indenture) to make on its behalf deposits of Eligible Funds (as defined in the Indenture) to the Trustee in the amounts and at the times necessary to pay the principal of and interest (the “**Bond Service Charges**”) on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer’s right, title and interest in and to the Loan Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Loan Agreement, the Borrower will execute a Land Use Restriction Agreement on or about the date of the closing of the Mortgage Loan (the “**Land Use Restriction Agreement**”) among the Issuer, the Borrower and the Trustee.

Copies of the Indenture, the Loan Agreement and the Land Use Restriction Agreement are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Loan Agreement and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Revenues. The Bonds are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“**DTC**”), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Bonds (the “**book-entry interests**”) having no right to receive from the Issuer Bonds in the form of physical securities or certificates. Ownership of book-entry interests in the Bonds shall be shown by book-entry on the system maintained and operated by DTC, its participants (the “**Participants**”) and certain persons acting through the Participants, and transfers of ownership of book-entry interests shall be made only by that book-entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of book-entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book-entry system, the Issuer may attempt to have established a securities depository/book-entry system relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of book-entry interests by the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond certificates in fully registered form (in Authorized Denominations as defined in the Indenture) to the assignees of the Depository

or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those Persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Indenture permits certain amendments or supplements to the Indenture, the Loan Agreement, the Land Use Restriction Agreement and the Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding.

The Holder of each Bond has only those remedies provided in the Indenture.

The Bonds shall not constitute the personal obligation, either jointly or severally, of the members of the Governing Body or of any other officer or official of the Issuer.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (a) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special limited obligations of the Issuer, and (b) precedent to and in the execution and delivery of the Indenture and the Loan Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be to be executed and delivered by the manual or facsimile signature of its Chair and attested by the manual or facsimile signature of its Secretary as of the day and year first written above.

**THE HEALTH, EDUCATIONAL AND
HOUSING FACILITY BOARD OF THE
CITY OF CHATTANOOGA,
TENNESSEE**

By: _____
Chair

ATTEST:

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: _____, 2024.

**U.S. Bank Trust Company, National
Association**

By: _____
Authorized Officer

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and irrevocably constitutes and appoints _____ attorney to transfer that Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Please insert social security number or other tax identification number of transferee

DTC FAST RIDER

Each Bond shall remain in the Trustee's custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Trustee and DTC.