

**CITY OF FALCON HEIGHTS**  
Regular Meeting of the City Council  
City Hall  
2077 West Larpenteur Avenue  
**AGENDA**  
May 12, 2021 at 7:00 P.M.

**NOTE: THIS MEETING WILL BE HELD BY WEB CONFERENCE\***

- A. CALL TO ORDER:
- B. ROLL CALL: ANDREWS \_\_\_ GUSTAFSON\_\_\_ LEEHY\_\_\_  
MIAZGA \_\_\_ WEHYEE\_\_\_  
STAFF PRESENT: THONGVANH\_\_\_
- C. PRESENTATION  
1. 2020 Year-End Annual Audit Report
- D. APPROVAL OF MINUTES:  
1. April 7, 2021 City Council Workshop Minutes  
2. April 14, 2021 City Council Regular Minutes
- E. PUBLIC HEARINGS:
- F. CONSENT AGENDA:  
1. General Disbursements through: 5/7/21 \$204,937.08  
Payroll through: 4/30/21 \$19,550.37  
2. City License(s)  
3. Polling Place Agreement  
4. Appointment of Laure Campbell to the Community Engagement Commission
- G: POLICY ITEMS:  
1. Amber Union Project – Conduit Revenue Bonds  
2. Amber Union Project – Tax Increment Financing  
3. Order Feasibility Report and Set Public Hearing for Alley Improvements
- H. INFORMATION/ANNOUNCEMENTS:
- I. COMMUNITY FORUM:  
*Please limit comments to 3 minutes per person. Items brought before the Council will be referred for consideration. Council may ask questions for clarification, but no council action or discussion will be held on these items.*
- J. ADJOURNMENT:

\*You can participate in the meeting by clicking the following Zoom link:  
<https://us02web.zoom.us/j/89488033956>

Toll Free Number:  
1-877-853-5247  
1-888-788-0099

Webinar ID: 894 8803 3956

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Presentation C1
<b>Attachment</b>	N/A
<b>Submitted By</b>	Sack Thongvanh, City Administrator

<b>Item</b>	Year-End 2020 Annual Audit Report
<b>Description</b>	<p>Matt Meyer of BerganKDV will present the Comprehensive Annual Financial Report for the Year Ended December 31, 2020. The Financial Report is a complex document that includes evaluation and analysis of the financial stability of the City as it relates to General Fund, Capital Funds, Proprietary Funds, and Debt Service Funds.</p> <p>Mr. Meyer will provide a high-level overview of the financial stability of the City for year-end 2020.</p>
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	<p><a href="#">Communications Letter</a></p> <p><a href="#">Legal Compliance Report</a></p> <p><a href="#">Comprehensive Annual Financial Report (CAFR) 2020</a></p>
<b>Action(s) Requested</b>	Motion to accept and approve the Year End 2020 Annual Audit Report.

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**CITY OF FALCON HEIGHTS**  
Regular Meeting of the City Council  
City Hall  
2077 West Larpenteur Avenue  
**AGENDA**  
April 14, 2021 at 7:00 P.M.

**NOTE: THIS MEETING WILL BE HELD BY WEB CONFERENCE\***

- A. CALL TO ORDER: 7:01 PM
- B. ROLL CALL: ANDREWS \_\_X\_\_ GUSTAFSON \_\_X\_\_ LEEHY \_\_X\_\_  
MIAZGA \_\_X\_\_ WEHYEE \_\_X\_\_  
STAFF PRESENT: THONGVANH \_\_X\_\_

Mayor Gustafson

At the request of Council Member Wehyee, Item F2 will be removed as the topic is employee performance, is classified as private data and will be moved to a closed session. Item J will be amended to 'Closed Session,' during which the performance review will take place. Add item K, 'Return to Open Meeting from Closed Meeting,' add item L, 'Summary Report from Closed Meeting: Evaluation of Performance for City Administrator Sack Thongvanh,' and add item M, 'Adjournment.

Motion to approve the agenda with the changes.  
Approved 5-0.

- C. PRESENTATION
- D. APPROVAL OF MINUTES:
1. March 10, 2021 City Council Workshop Minutes
  2. March 24, 2021 City Council Regular Minutes

Motion to approve the minutes from March 10, 2021 and March 24, 2021 by Council Member Leehy;  
Approved, 5-0.

- E. PUBLIC HEARINGS:
- F. CONSENT AGENDA:
1. General Disbursements through: 4/09/21 \$190,109.98  
Payroll through: 4/15/21 \$18,079.48
  - ~~2. City Administrator Sack Thongvanh Performance Evaluation~~
  3. Parks - Picnic Tables
  4. Electric Payment Platform -AllPaid
  5. Appointment of Danny Locke to the Community Engagement Commission

Motion to approve the consent agenda by Council Member Andrews;  
Approved, 5-0.

- G: POLICY ITEMS:
- H. INFORMATION/ANNOUNCEMENTS:

### Council Member Andrews

The Park & Recreation Commission met last week and continued the discussion about renovating the community building. The garden plots are full but there is a waiting list. Summer Parks programming is open for registration.

### Council Member Leahy

The next Planning Commission meeting will be next Tuesday, April 27 at 7pm. I also want to acknowledge our fire department and express our appreciation for their service. We as a City will be providing the department members with a plaque to commemorate their service. I also want to express that our thoughts and feelings are with the family of Daunte Wright as we grapple with the events of the past few days.

### Council Member Miazga

NYFS is organizing their annual spring gala, it's still uncertain whether it will be in person or virtual.

### Council Member Wehyee

I don't have a lot to share, just that tomorrow the Environment Commission will be meeting. I also want to echo the comments regarding the tragic death of Daunte Wright and to send my thoughts and prayers to the people of Brooklyn Center.

### Mayor Gustafson

The CEC will be meeting on Monday, April 19. I'll also be participating in an event with the League of Women Voters along with other mayors and addressing environmental concerns of our communities. If any fire fighters have items that they believe are individual property, please notify City Hall so we can review and set items aside.

### Administrator Thongvanh

Staff will be touring a few different park buildings in Roseville tomorrow to get information and ideas for renovation or reconstruction of the Community Park building. We'll likely have enough resources to fund half of the park building, so we would need to levy for the other half, so the impact will be lower than initially thought. We are looking at a ground breaking for Amber Union on June 24, let me know if that doesn't work for you. Our City Attorney is working on a number of items for the Council including subgrant agreements and encroachment agreements. The project is very complex with a lot of funding sources as well as historic credits and low-income housing credits.

#### I. COMMUNITY FORUM:

*Please limit comments to 3 minutes per person. Items brought before the Council will be referred for consideration. Council may ask questions for clarification, but no council action or discussion will be held on these items.*

### Dan Johnson-Powers

I live on Tatum Street. As a point of clarification, the mayor talked about request for items that possibly exist at the fire department that don't belong to the City. There is a picture on the wall in the fire station that my dad gave to me. We have tools that members made, or things of low value that there is no paper trail for, especially items that are more than 20 years old.

### Andrea Poehler City Attorney

If someone can provide evidence or an affidavit that an item is theirs or their family, we may be able to provide that item back to them. Otherwise, the city cannot provide City property to a current employee. Property can be sold to a former employee if a determination is made that the property is in excess. Generally, the council would authorize the City Administrator to sell the excess property. If the item is a personal item brought in by the employee to their work space, they can have that item back.

Dan Johnson-Powers

We have many fathers or mentors on the department that have served in the past are no longer alive. It would be impossible to write an affidavit in these cases but the items that were theirs may hold sentimental value.

Administrator Thongvanh

The attorney suggested that the City could determine value of the property and sell it back to the owner for that value.

Mayor Gustafson

As a point of clarification, the Council will not take action on any item brought up during the forum. They may address the item if it is on the agenda for a future meeting.

- J. CLOSED SESSION:
  - 1. City Administrator Sack Thongvanh Performance Evaluation
- K. RETURN TO OPEN MEETING FROM CLOSED MEETING: 8:24 PM
- L. SUMMARY REPORT FROM CLOSED MEETING:
  - 1. City Administrator Sack Thongvanh Performance Evaluation

Mayor Gustafson

The City Council conducted the annual review of City Administrator Sack Thongvanh. The City Council reports that the Council has a motion in front of it to approve a 3% increase to base salary and to amend section 17 of the employment agreement. If terminated by the employer, then the employer agrees to pay six months salary and benefits; previously the agreement provided for four months.

Administrator Thongvanh

I would like to thank the City Council for your continued support. It's very rare being a public servant that you get a pat on the back and told that you're doing a good job. I dedicated 6 years of my life to the community and dealt with many challenges in those 6 years, the Philando Castile shooting and change in police services to now the possible change in police services for the second time in my six year. We continue to have challenges in the coming years but I believe that with the support of this council and the work of the future council that the City will be fiscally responsible for years to come.

Motion by Mayor Gustafson to approve the step increase of 3% in base pay and amend Employment Agreement Provision 17: Termination Benefits to change the four-month provision to six months per Addendum #3 for City Administrator Sack Thongvanh, effective April 27, 2021;  
Approved, 4-1 (Wehyee- no).

- M. ADJOURNMENT: 8:33 PM

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Randall C. Gustafson, Mayor

Dated this 14th day of April, 2021

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Sack Thongvanh, City Administrator

**CITY OF FALCON HEIGHTS**  
City Council Workshop  
City Hall  
2077 West Larpenteur Avenue

**MINUTES**  
April 7, 2021  
6:30 P.M.

**NOTE: THIS MEETING WAS HELD BY WEB CONFERENCE**

- A. CALL TO ORDER: 6:33 PM
- B. ROLL CALL: ANDREWS\_X\_ GUSTAFSON\_X\_ LEEHY\_X\_  
MIAZGA \_\_\_ WEHYEE\_X\_  
  
STAFF PRESENT: THONGVANH\_X\_ WALTER\_X\_
- C. PRESENTATIONS:
- D. POLICY ITEMS:
  - 1. American Rescue Plan Act – Coronavirus Local Fiscal Recovery Fund (CLFRF)

Administrator Thongvanh

The act was signed by the Biden Administration on March 11 which included funding assistance for local government. The first round of funding from the CARES act went to public safety and safety improvements at City Hall. The funds from CLFRF would first be available to the City in May and would not expire until December 2024. The funds can be used for lost revenue during the COVID-19 pandemic due to loss of facility rental and sewer fund revenues. The City could also transfer funds from the CLFRF to other organizations such as NYFS. A third option is investment in water, sewer, and broadband infrastructure.

Any assistance that the City would offer residents for housing would need to be closely administered so that it does not disqualify the applicant for assistance through other agencies.

Council Member Wehyee

How soon we can expect information on the use of these funds?

Administrator Thongvanh

I've been requesting clarification from the LMC and MMB, as well as our auditors. We want to prepare for this. The last round of funding was more chaotic but this round of funding allows more time to get prepared for the use of funds.

- 2. Stop Sign Update



Administrator Thongvanh

In 2019 the Council received a request for a stop sign in the Northome neighborhood. Staff worked with the City engineer and based on data analysis, it was determined that a stop sign would not meet standards. Council then directed staff to research lowering the City speed limit on residential streets to 20mph.

In the packet is data from a speed study as well as a memo from our City attorney about the process of reducing the speed limit to 20mph.

Jesse Freihammer, City Engineer

Stop signs are designed to determine who should get the right of way. A lot of research has been done regarding stop signs, much of which indicates that they are not intended to control speeds. We really want to use these signs when it's going to be effective and avoid sign pollution. The current stop signage in the Northeast and Southeast quadrants is consistent and organized in a basket weave formation with stops every other block. We also want to be consistent with the reasoning used in decisions around stop signs in the past. Any one stop sign isn't going to create drastic problems but the concern is that the City is setting a precedent and requests in the future may be difficult to deny using the same logic.

Council Member Wehyee

I appreciate the research that went into the speed study and understand the argument. I nevertheless do support the stop sign because I think there's something important about giving residents the peace of mind regardless of what the science says. Also, I'm not convinced about the snowball effect because I think Council could assess each request as they are brought forward.

Mayor Gustafson

Would we then adopt a policy that says we abandon our efforts to standardize and do research on issues to support decisions?

Council Member Wehyee

What I was suggesting is that when issues come up, Council considers them and determines what they think is best.

Mayor Gustafson

That's what we did in requesting this research and analysis. What kind of standard do we use to apply citywide?

Council Member Leehy

What I'm hearing is that whatever our decision is, it's going to impact what we do in the future. Either we set it up like a petition process or we use the research and resources of our staff to provide a recommendation based on the data.

Administrator Thongvanh

Best practices for all communities in Minnesota is to use fair standards to make determinations, such as use of speed studies, traffic volume, traffic incidents. Staff would then make decisions based on the data and the recommendations of subject matter experts.

Council Member Wehyee

Does the City have a policy that establishes this to be the policy? The conversation is being framed as if this is already the process.

Administrator Thongvanh

We don't have policies for everything. We have to focus on the most reasonable process to run city government. If this is something that the council feels it is important to have a policy on, then I agree that we should create one so that we can be consistent.

Council Member Andrews

I can't imagine having a policy along the lines of "if we have five requests we'll put in a stop sign." In that case it's going to be driven by the residents that want it, and that varies depending on who is there. I support changing the speed limit to 20, I think that would help. For me, I don't need more info. In the speed study, there were not a lot of people that were speeding but there were a lot of people that were exceeding 20mph.

Council Member Leehy

I just know from today, I am more convinced that putting in the stop sign will not solve the problem but lowering the speed limit will. I appreciate the clarification on the Council's request to our engineer to do a speed study. I'm in favor of us denying the stop sign.

Mayor Gustafson

My opinion has not changed; the data does not support the sign but it does support a 20mph speed limit throughout the City. I'm fearful of ignoring the expertise of our staff.

Council Member Andrews

I agree.

Council Member Leehy

I agree that we need to work on changing the speed limit and not install the stop sign.

Jesse Freihammer, City Engineer

We have to do traffic counts for some of the state aid roads. We can do another study this year of the intersection in question, it's not a significant amount of work.

Administrator Thongvanh

It might be a good practice to do the study after the 20mph change so that we know the true effect of it.

Council Member Andrews

I do think we should go ahead with the speed limit because that would show our residents that we are taking their concerns seriously.

Council Member Wehyee

There are a number of residents attending the meeting, I think we should let them speak.

Administrator Thongvanh

This would be up to the Council to decide.

Mayor Gustafson

I am not in favor of allowing residents to speak at this time. There time allowed during the community forum at our regular council meetings. Workshops are a time for Council to work with staff on issues.

Council Member Wehyee

There have been instances we have allowed community input at Council workshops. I'm disappointed that the Council won't allow them to speak.

Administrator Thongvanh

When we have allowed this in the past its usually been City staff making comment, such as when we had input from firefighters. This time is supposed to be for staff to get feedback from council on how to move forward with different agenda items.

Jesse Freihammer, City Engineer

I do have a few slides to share about the speed limits. Lower speed limits are less fatal to pedestrians. This will only apply to neighborhood roads as most of the main roads are under MnDOT or County jurisdiction.

Mayor Gustafson

Alright, if we have experts from the public that want to speak, let's hear them now.

Administrator Thongvanh

We will now take some feedback from the public. Please raise your hand and we'll bring you into the meeting.

Elizabeth Penrod, 1468 Idaho Ave W

I am one of the community members that has been asking for a stop sign at Iowa and Pascal. One of the concerns is that people turn from Hoyt onto Pascal and then speed to Larpenteur. Adding a stop sign would prevent this.

Mayor Gustafson

Thank you for your input.

### 3. Police Services Update

Administrator Thongvanh

The Council was notified in September 2020 that policing costs would increase through our contract with the County by \$350,000 annually. We've been researching alternative agencies, and St. Paul has expressed interest. Working with St. Paul for policing would provide additional benefits in the conversation around a 20mph speed limit because the officers would have consistency with enforcing these same speeds in St. Paul.

Sheriff Fletcher of Ramsey County told us that he would provide notice by January 2021 of the increase in costs. In reality, I did not receive a letter from Ramsey County. I was also not aware that Sheriff Fletcher was in communication with St. Paul regarding our policing services. Staff are working with St. Paul on the numbers in the contract, I'm hoping to get a contract for review in the next couple of months. There will likely be an increased cost initially, but in the long term, the cost will be lower.

I also included a letter sent by the City of Little Canada to Sheriff Fletcher; they are considering alternative agencies for law enforcement. Their council has voiced concerns of transparency and communication regarding critical issues.

I also included a letter sent by the City of Little Canada to Sheriff Fletcher; they are considering alternative agencies for law enforcement. Their council has voiced concerns of transparency and communication regarding critical issues.

#### 4. Fire Department Equipment Sale

##### Administrator Thongvanh

I have been in conversations with a company that could help sell one of the fire trucks. I got an appraisal and the truck is worth more than initially thought.

#### 5. City Events and Facility Rentals

##### Administrator Thongvanh

The City has received a number of requests to use City Facilities, specifically by organized groups that would like to use City Hall such as the Falconeers senior card club and the Taekwondo program. I am comfortable allowing the building to be used for these purposes, assuming City Hall would remain closed for walk-in services. We've been operating under an appointment-only model since last spring and I have not heard any complaints. Our permits and licensing have been done electronically via our website and email.

##### Council Member Leehy

We may need to allow time between uses for staff to disinfect the surfaces, this could be added to the fee we charge for rental of the space.

E. INFORMATION/ANNOUNCEMENTS:

F. ADJOURNMENT: 9:23 PM

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Randall C. Gustafson, Mayor

Dated this 7th day of April, 2021

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Sack Thongvanh, City Administrator



## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Consent F1
<b>Attachment</b>	General Disbursements and Payroll
<b>Submitted By</b>	Roland Olson, Finance Director

<b>Item</b>	General Disbursements and Payroll
<b>Description</b>	General Disbursements through: 5/07/21 \$204,937.08 Payroll through: 4/30/21 \$19,550.37
<b>Budget Impact</b>	The general disbursements and payroll are consistent with the budget.
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• General Disbursements and Payroll</li> </ul>
<b>Action(s) Requested</b>	Staff recommends that the Falcon Heights City Council approve general disbursements and payroll.

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PACKET: 02283 APR 30 PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

POST DATE	BANK CODE	DESCRIPTION	GROSS DISCOUNT	P.O. # G/L ACCOUNT	ACCOUNT NAME	DISTRIBUTION
01-05422	BP					
I-202104307824		FUEL	874.78			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		FUEL		101 4132-74000-000	MOTOR FUEL & LUBRICANTS	273.37
		FUEL		602 4602-74000-000	FUEL & LUBRICANTS	601.41
=== VENDOR TOTALS ===			874.78			

01-06290	CITY OF ROSEVILLE					
I-230032		PMP//ENGINEERING	4,402.77			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		PMP MAR		426 4426-80100-000	ENGINEERING	1,136.26
		MAR GENERAL ENG		101 4133-80100-000	ENGINEERING SERVICES	2,797.89
		MAR ENG AMBER UNION		428 4428-80100-000	ENGINEERING	468.62
=== VENDOR TOTALS ===			4,402.77			

01-04000	EHLERS AND ASSOCIATES					
I-86729		POST ISSUANCE COMPOLIANCE UPD	200.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		POST ISSUANCE COMPOLIANCE UPDA		427 4427-81900-000	OTHER PROFESSIONAL SERVI	200.00
I-86730		ESTABLISHMENT TIFT DIST 1-4	4,750.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		ESTABLISHMENT TIFT DIST 1-4		428 4428-89000-000	MISCELLANEOUS	4,750.00
I-86731		DEVELOPMENT AGREEMTN BUHL GTA	1,200.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		DEVELOPMENT AGREEMTN BUHL GTA		428 4428-89000-000	MISCELLANEOUS	1,200.00
=== VENDOR TOTALS ===			6,150.00			

01-05153	HOME DEPOT CRC/GECF					
I-202104307822		BOLTS	7.41			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		BOLTS		101 4131-70110-000	SUPPLIES	7.41
=== VENDOR TOTALS ===			7.41			

PACKET: 02283 APR 30 PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----			GROSS	P.O. #		
BT DATE	BANK CODE	-----DESCRIPTION-----	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION
=====						
01-05642	MEDIATION CENTER INC					
I-1078		COMMUNITY ENGAGEMENT SVC	14,973.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		COMMUNITY ENGAGEMENT SVC		210 4210-86100-000	CONFERENCES/EDUCATGION	14,973.00
		=== VENDOR TOTALS ===	14,973.00			
=====						
01-05582	MENARDS					
I-202104307823		OIL/ FLAG/MICROFIBER COTHS	196.64			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		OIL/ FLAG/MICROFIBER COTHS		101 4131-70110-000	SUPPLIES	196.64
		=== VENDOR TOTALS ===	196.64			
=====						
01-05973	NORTH SUBURBAN ACCESS CORPORAT					
I-2020-195		PURCH/IINSTALLATION EQUIP	1,204.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		PURCH/IINSTALLATION EQUIP		401 4401-90100-000	FURNITURE & EQUIPMENT	1,204.00
I-2020-209		OCT WEB STREAMING/PRODUCTION	492.42			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		OCT WEB STREAMING/PRODUCTION		101 4116-85050-000	CABLE TV	492.42
I-2020-235		NOV WEB STREAMING/ PRODUCTION	492.42			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		NOV WEB STREAMING/ PRODUCTION		101 4116-85050-000	CABLE TV	492.42
I-2020-256		DEC WEB STREAMING PRODUCTION	492.42			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		DEC WEB STREAMING PRODUCTION		101 4116-85050-000	CABLE TV	492.42
I-2020-271		HUMAN RIGHTS EVENT	285.00			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		HUMAN RIGHTS EVENT		101 4116-85050-000	CABLE TV	285.00
I-2020-529		Q4 CITY COOPERATIVE SVC	2,781.67			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		Q4 CITY COOPERATIVE SVC		101 4116-85050-000	CABLE TV	2,781.67
I-2021-002		JAN 13, 26, 27 VIRTUAL MEETIN	748.42			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		JAN 13, 26, 27 VIRTUAL MEETING		101 4116-85050-000	CABLE TV	748.42
I-2021-054		MAR 10,23/24 VIRTUAL MEETEING	747.42			
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N		
		MAR 10,23/24 VIRTUAL MEETEINGS		101 4116-85050-000	CABLE TV	747.42



PACKET: 02283 APR 30 PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----		GROSS	P.O. #		
POST DATE	BANK CODE	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION

01-05973 NORTH SUBURBAN ACCESS CORPORAT( \*\* CONTINUED \*\* )

I-2021-504		Q1 2021 COOPERATIVE SVC	2,783.30		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		Q1 2021 COOPERATIVE SVC		101 4116-85050-000	CABLE TV 2,783.30
		=== VENDOR TOTALS ===	10,027.07		

01-06024 ON SITE SANITATION

I-1108965		HAND SANITIZERS/PORTABLE REST	75.00		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		HAND SANITIZERS/PORTABLE RESTR		601 4601-85080-000	PORTABLE TOILET PARKS 75.00
		=== VENDOR TOTALS ===	235.00		

01-06185 RAMSEY COUNTY

RRRV 001568		OVERLAPPING DEBT SCHEDULE	95.00		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		OVERLAPPING DEBT SCHEDULE		101 4112-89000-000	MISCELLANEOUS 95.00
		=== VENDOR TOTALS ===	95.00		

01-07019 ST CLOUD STATE UNIV

I-21-35/217885-9178		MCGOA ANNAL CONF VANDARRA	275.00		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		MCGOA ANNAL CONF VANDARRA		101 4112-86100-000	CONFERENCES/EDUCATION/AS 275.00
I-21.34/217885-9178		MCFOA ANNUAL CONF ASHLEIGH	275.00		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		MCFOA ANNUAL CONF ASHLEIGH		101 4112-86100-000	CONFERENCES/EDUCATION/AS 275.00
		=== VENDOR TOTALS ===	550.00		

01-00935 ST PAUL REGIONAL WATER SERVICE

I-202104307821		WATER AND SS	119.43		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		WATER		101 4141-85040-000	WATER 58.51
		SS		601 4601-85070-000	SAC CHARGES AND SS CHARG 16.48
		WATER		101 4141-85040-000	WATER 32.61
		SS		601 4601-85070-000	SAC CHARGES AND SS CHARG 11.83
		=== VENDOR TOTALS ===	119.43		

PACKET: 02283 APR 30 PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----		GROSS	P.O. #		
POST DATE	BANK CODE	-----DESCRIPTION-----	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME----- DISTRIBUTION
=====					
01-07897	WS & D	PERMIT SERIVCED INC			
-----					
I-202104307825		REFUND;CONCELLED PERMIT	364.45		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		REFUND;CONCELLED PERMIT		101 32214-000	WINDOW/SIDING PERMIT 364.45
		=== VENDOR TOTALS ===	364.45		
=====					
01-05870	XCEL	ENERGY			
-----					
I-202104307820		ELECTRIC	80.28		
4/30/2021	APBNK	DUE: 4/30/2021 DISC: 4/30/2021		1099: N	
		ELECTRIC		209 4209-85020-000	STREET LIGHTING POWER 56.89
		ELECTRIC		209 4209-85020-000	STREET LIGHTING POWER 23.39
		=== VENDOR TOTALS ===	80.28		
		=== PACKET TOTALS ===	38,075.83		

PACKET: 02287 MAY 5TH PAYABLES  
 VENDOR SET: 01 City of Falcon Heights  
 SEQUENCE : ALPHABETIC  
 DUE TO/FROM ACCOUNTS SUPPRESSED

POST DATE	BANK CODE	-----ID----- -----DESCRIPTION-----	GROSS DISCOUNT	P.O. # G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION
=====						
01-00875	BHE	COMMUNITY SOLAR, LLC				
I-11119378		SOLAR GARDEN ELECT MARCH	1,162.70			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		SOLAR GARDEN ELECT MARCH		101 4131-85025-000	SOLAR ELECTRIC	1,162.70
		=== VENDOR TOTALS ===	1,162.70			
=====						
01-05115	GOPHER STATE	ONE CALL				
I-1040384		LOCATES	139.05			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		LOCATES		601 4601-88030-000	LOCATES	139.05
		=== VENDOR TOTALS ===	139.05			
=====						
01-05235	JAN-PRO	CLEANING SYSTEMS				
I-101191		JANITORIAL SVC MAY	450.00			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		JANITORIAL SVC MAY		101 4131-87010-000	CITY HALL MAINTENANCE	450.00
		=== VENDOR TOTALS ===	450.00			
=====						
01-05923	MCDONALD	HOPKINS LLC				
I-1411145		INADVERTANT POSTING	668.25			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		INADVERTANT POSTING		101 4192-89000-000	MISCELLANEOUS	668.25
		=== VENDOR TOTALS ===	668.25			
=====						
01-06030	OLSON,ROLAND					
I-202105057827		MILEAGE REIMB	57.73			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		MILEAGE REIMB		101 4113-86010-000	MILEAGE	57.73
		=== VENDOR TOTALS ===	57.73			
=====						
01-06314	REHDER	FORESTRY CONSULTING				
I-175		FORESTRY CONSULTING	156.13			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		FORESTRY CONSULTING		101 4134-80330-000	FORESTRY CONSULTANT	156.13
		=== VENDOR TOTALS ===	156.13			

PACKET: 02287 MAY 5TH PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----			GROSS	P.O. #		
DATE	BANK CODE	-----DESCRIPTION-----	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION
=====						
01-00935		ST PAUL REGIONAL WATER SERVICE				
-----						
I-202105057826		HYDRANT INSPECTIONS/CLEANING	285.08			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		HYDRANT INSPECTIONS/CLEANING		204 4204-87090-000	REPAIR EQUIPMENT	285.08
		=== VENDOR TOTALS ===	285.08			
=====						
01-05784		UPPER CUT TREE SERVICES				
-----						
I-4993		TREE REMOVALS 1464 IDAHO/1481	400.00			
5/05/2021	APBNK	DUE: 5/05/2021 DISC: 5/05/2021		1099: N		
		TREE REMOVALS 1464 IDAHO/1481		101 4134-84020-000	TREE REMOVAL	400.00
		=== VENDOR TOTALS ===	400.00			
		=== PACKET TOTALS ===	3,318.94			

PACKET: 02289 MAY 7TH PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----  
 GROSS P.O. #  
 ST DATE BANK CODE -----DESCRIPTION----- DISCOUNT G/L ACCOUNT -----ACCOUNT NAME----- DISTRIBUTION  
 =====

01-00900 BEISSWENGER'S  
 I-436042 WEED FREE 99.98  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 WEED FREE 101 4141-70100-000 SUPPLIES 99.98  
 === VENDOR TOTALS === 99.98

01-01034 BRAKE AND EQUIPMENT WAREHOUSE  
 I-01JS9397 BRAKE CLEAN 47.76  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 BRAKE CLEAN 101 4132-87000-000 REPAIR EQUIPMENT 47.76  
 === VENDOR TOTALS === 47.76

01-06290 CITY OF ROSEVILLE  
 I-230049 IT SUPPORT/STAFF/EQUIP/.SOFTW 4,042.58  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 IT SUPPORT MAY 101 4116-85070-000 TECHNICAL SUPPORT 1,074.93  
 IT SUPPORT STAFF MAY 101 4116-85070-000 TECHNICAL SUPPORT 2,536.91  
 IT EQUIPMENT MAY 101 4116-85070-000 TECHNICAL SUPPORT 144.68  
 IT SOFTWARE LICENSING 101 4116-70100-000 SUPPLIES 286.06

I-230088 ENGINEERING 1,944.96  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 PMP FEB ENGINERING 426 4426-80100-000 ENGINEERING 909.15  
 ENGINEERING FEB 101 4133-80100-000 ENGINEERING SERVICES 798.61  
 ENGINEERING FEB 428 4428-80100-000 ENGINEERING 118.60  
 ENGINEERING FEB 419 4419-80100-000 ENGINEERING 118.60  
 === VENDOR TOTALS === 5,987.54

01-05119 GFOA  
 I-6941 CERT ACHIEVEMENT REVIEW FEE 460.00  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 CERT ACHIEVEMENT REVIEW FEE 101 4113-89000-000 MISCELLANEOUS 460.00  
 === VENDOR TOTALS === 460.00

01-05134 HEJNY RENTAL, INC.  
 I-333849 TILLER RENTAL 168.93  
 5/07/2021 APBNK DUE: 5/07/2021 DISC: 5/07/2021 1099: N  
 TILLER RENTAL 203 4203-89000-000 MISCELLANEOUS 168.93

PACKET: 02289 MAY 7TH PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----			GROSS	P.O. #		
POST DATE	BANK CODE	-----DESCRIPTION-----	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION
=====						
01-05134	HEJNY RENTAL, INC.	( ** CONTINUED ** )				
=====						
I-334-44		BOBCAT EXCAVATOR	359.16			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		BOBCAT EXCAVATOR		203 4203-89000-000	MISCELLANEOUS	359.16
		=== VENDOR TOTALS ===	528.09			
=====						
01-05665	METROPOLITAN COUNCIL					
=====						
I-1124292		SS MAY CHRGS	48,196.27			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		SS MAY CHRGS		601 4601-85060-000	METRO SEWER CHARGES	48,196.27
		=== VENDOR TOTALS ===	48,196.27			
=====						
01-05263	MID CITY SERVICES- INDUSTRIAL					
=====						
I-150549		FLOOR MAT SVC	42.15			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		FLOOR MAT SVC		101 4131-87010-000	CITY HALL MAINTENANCE	42.15
		=== VENDOR TOTALS ===	42.15			
=====						
01-06053	OREILLY AUTO PARTS					
=====						
I-202105077828		URETHANE/SWEEPER PARTS/BATTER	214.85			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		URETHANE		101 4132-70120-000	SUPPLIES	19.95
		SWEEPER PARTS		602 4602-83025-000	SWEEPER PARTS/SUPPLIES	99.78
		BOBCAT BATTERY		101 4132-70120-000	SUPPLIES	95.12
		=== VENDOR TOTALS ===	214.85			
=====						
01-06185	RAMSEY COUNTY					
=====						
I-RISK 002106		DENTAL/LIFE/DISABILITY ING	1,086.74			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		DENTAL/LIFE/DISABILITY ING		101 4112-89000-000	MISCELLANEOUS	1,086.74
		=== VENDOR TOTALS ===	1,086.74			
=====						
01-06184	RAMSEY COUNTY - POLICE AND 911					
=====						
I-SHRFL 001980		RAMSEY COUNTY - POLICE AND 91	99,629.67			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		RAMSEY COUNTY - POLICE AND 911		101 4122-81000-000	POLICE SERVICES	99,629.67
		=== VENDOR TOTALS ===	99,629.67			

PACKET: 02289 MAY 7TH PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

-----ID-----			GROSS	P.O. #		
POST DATE	BANK CODE	-----DESCRIPTION-----	DISCOUNT	G/L ACCOUNT	-----ACCOUNT NAME-----	DISTRIBUTION
<hr/>						
01-05374	TENNIS SANITATION LLC					
I-2929130		APRIL RECYCLING	6,961.50			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		APRIL RECYCLING		206 4206-82030-000	RECYCLING CONTRACTS	6,961.50
<hr/>						
I-2929131		RECYCLING SWMT/CEC APR	65.99			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		RECYCLING SWMT/CEC APR		101 4131-87010-000	CITY HALL MAINTENANCE	65.99
		=== VENDOR TOTALS ===	7,027.49			
<hr/>						
01-05737	VERIZON WIRELESS					
I-9878375785		CELL PHONE	112.07			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		CELL PHONE		101 4131-85015-000	CELL PHONE	112.07
<hr/>						
I-9878526537		CELL PHONE	80.06			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		CELL PHONE		101 4117-85015-000	CELL PHONE	80.06
		=== VENDOR TOTALS ===	192.13			
<hr/>						
01-05870	XCEL ENERGY					
I-202105077829		ELECT	29.64			
5/07/2021	APBNK	DUE: 5/07/2021 DISC: 5/07/2021		1099: N		
		ELECT		209 4209-85020-000	STREET LIGHTING POWER	29.64
		=== VENDOR TOTALS ===	29.64			
		=== PACKET TOTALS ===	163,542.31			

----- NAME -----	AMOUNT
RANDALL C GUSTAFSON	293.07
MELANIE M LEEHY	262.05
MARK J MIAZGA	262.05
YAKASAH WEHYEE	262.05
KAY ANDREWS	255.30
SACK THONGVANH	3,911.96
ASHLEIGH WALTER	1,563.04
VANDARA THAMMAVONGSA	1,544.21
ROLAND O OLSON	2,861.89
TIMOTHY J PITTMAN	2,259.27
DAVE TRETSEVEN	1,813.02
COLIN B CALLAHAN	2,213.11

TOTAL PRINTED: 12 17,501.02

4-27-2021 7:21 AM PAYROLL CHECK REGISTER  
PAYROLL NO: 01 City of Falcon Heights

PAGE: 1  
PAYROLL DATE: 4/27/2021

EMP NO	EMPLOYEE NAME	TYPE	CHECK DATE	CHECK AMOUNT	CHECK NO.
101.	MORETTO, PAUL A	R	4/27/2021	2,049.35	090431

4-27-2021 7:21 AM PAYROLL CHECK REGISTER  
PAYROLL NO: 01 City of Falcon Heights

PAGE: 2  
PAYROLL DATE: 4/27/2021

\*\*\* REGISTER TOTALS \*\*\*

REGULAR CHECKS:	1	2,049.35
DIRECT DEPOSIT REGULAR CHECKS:	12	17,501.02
MANUAL CHECKS:		
PRINTED MANUAL CHECKS:		
DIRECT DEPOSIT MANUAL CHECKS:		
VOIDED CHECKS:		
NON CHECKS:		
TOTAL CHECKS:	13	19,550.37

\*\*\* NO ERRORS FOUND \*\*\*

END OF REPORT \*\*





## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Consent F2
<b>Attachment</b>	N/A
<b>Submitted By</b>	Ashleigh Walter, Administrative & Communications Coordinator

<b>Item</b>	Approval of City License
<b>Description</b>	The following individuals/entities have applied for a <u>Tree Trimming/Treating/Removal Contractor's License</u> for 2021. Staff have received the necessary documents for licensure. 1. All Seasons Tree Services & Snow Plowing
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	N/A
<b>Action(s) Requested</b>	Staff recommends approval of the City License application.

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Consent F3
<b>Attachment</b>	Agreement
<b>Submitted By</b>	Sack Thongvanh, City Administrator

<b>Item</b>	Ramsey County - Polling Place Agreement
<b>Description</b>	The City received a request the use of City Hall as a polling place for the 2021 Election Season. The Election dates for City Hall is listed on the polling place agreement attached.
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• Ramsey County Polling Place Agreement</li> </ul>
<b>Action(s) Requested</b>	Staff recommend approval of attached resolution and authorize the City Administrator to execute all necessary documents.

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## 2021 Polling Place Agreement

Feb. 1, 2021

Polling Place: FALCON HEIGHTS CITY HALL  
2077 LARPEN TEUR AVE W  
FALCON HEIGHTS, MN 55113

FALCON HEIGHTS CITY HALL agrees to provide said premises to Ramsey County for election purposes, for the following election(s):

**Primary** — 8/10/2021 (White Bear Lake only)

**General Election** — 11/02/2021

**Note:** We will notify you if a special election is necessary and we require your space for voting. Special elections may occur only on designated dates, according to state law. Potential 2021 special election dates are *4/13/2021* and *5/11/2021*.

**Please complete and return this agreement to the Elections Office promptly.**

Said party agrees to properly heat and light said premises from 5:30 a.m. until the work of the election judges is completed. Said party agrees that the building will be open at 5:30 a.m. on Election Day and that no other activities at the location will interfere with the voting process. Said party agrees to provide space for secure storage of all voting materials when not in use by election judges.

On-site contact person:

If the building is not open at 5:30 a.m. on Election Day, list any individuals with keys to open the facility:

Emergency contact:

Voting room/location:

Secure equipment storage location:

Instructions for delivery personnel:

Representative:

Signature:

Representing: FALCON HEIGHTS CITY HALL

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Consent F4
<b>Attachment</b>	Resolution
<b>Submitted By</b>	Ashleigh Walter, Administrative & Communication Coordinator

<b>Item</b>	Appointment of Laure Campbell to the Community Engagement Commission
<b>Description</b>	<p><b>Full Name</b> Laure Campbell</p> <p><b>Full Address</b> 1722 Pascal St</p> <p><b>How Long At Above Address?</b> 16 years</p> <p><b>In Which Capacity Would You Like to Serve?</b> Community Engagement</p> <p><b>What is the Reason You Would Like to Serve?</b> I love this city, and am curious about whether I could make a contribution by serving in this role.</p> <p><b>List Prior (Previous) Public Service</b> Hennepin County Guardian ad Litem volunteer 2018-2020.</p> <p><b>Other Relevant Background (Other Comments)</b> Was U of MN Research Subject Advocate from 2006-2013.</p>
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• Resolution 21-18 Appointment of Laure Campbell to the CEC</li> </ul>
<b>Action(s) Requested</b>	Staff recommend approval of attached resolution appointing Laure Campbell to the Community Engagement Commission.

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**CITY OF FALCON HEIGHTS  
COUNCIL RESOLUTION**

May 12, 2021

No. 21-18

---

**RESOLUTION APPOINTING LAURE CAMPBELL TO THE COMMUNITY ENGAGEMENT  
COMMISSION**

**WHEREAS**, the City Council consolidated the Human Rights Commission with the Neighborhood Commission to establish the Community Engagement Commission in 2015;

**WHEREAS**, The Community Engagement Commission shall serve in an advisory capacity to the city council regarding the effective, meaningful and equal involvement of Falcon Heights residents in their community. The commission will identify opportunities to collaborate with community, educational, business and social services groups and organizations; identify ways to improve the city’s public participation, identify under-represented groups, remove any barriers, and engage and promote increased participation for all residents, businesses, community and neighborhood organizations; review and recommend ways to improve the city’s communications efforts so as to facilitate effective two-way communication between the city and all residents, businesses, community and neighborhood organizations; review and recommend ways to help improve resident emergency preparedness and crime prevention programs.

The commission shall review complaints of alleged human rights violations occurring within the city and secure equal opportunity for all residents of the city regarding public services, public accommodations, housing, employment and education.

**WHEREAS**, City Staff, the Commission Chair, and the Mayor have interviewed Laure Campbell and recommend appointment to the Falcon Heights Community Engagement Commission.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Falcon Heights, Minnesota:

1. That the appointment of Laure Campbell to the Community Engagement Commission is approved and adopted by the City Council of the City of Falcon Heights.

---

Moved by:

Approved by: \_\_\_\_\_  
Randall C. Gustafson  
Mayor

GUSTAFSON            \_\_\_    In Favor  
MIAZGA  
ANDREWS            \_\_\_    Against  
LEEHY  
WEHYEE

Attested by: \_\_\_\_\_  
Sack Thongvanh  
City Administrator

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Policy G1
<b>Attachment</b>	See Below
<b>Submitted By</b>	Sack Thongvanh, City Administrator

<b>Item</b>	Amber Union - Conduit Revenue Bonds
<b>Description</b>	Please see memorandum from Catherine Courtney of Taft Stettinius & Hollister, LLP.
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• Memorandum from Catherine Courtney of Taft Stettinius &amp; Hollister, LLP</li> <li>• 2021 Form of 2021 Note</li> <li>• Loan Agreement</li> <li>• Assignment of Loan Agreement</li> <li>• Amended and Restated Regulatory Agreement</li> <li>• Loan Purchase Agreement</li> <li>• Resolution 21-19 Approving Issuance and Sale of Multifamily Housing Revenue Refunding Note for the Amber Union Project</li> </ul>
<b>Action(s) Requested</b>	Motion to approve attached resolution and authorize the Mayor and City Administrator to execute all documents and agreements attached.

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2200 IDS Center, 80 South 8th Street  
Minneapolis, MN 55402  
Tel: 612.977.8400 | Fax: 612.977.8550  
taftlaw.com

Affirmative Action / Equal Opportunity Employer

Catherine J. Courtney  
612.977.8765  
CCourtney@Taftlaw.com

May 6, 2021

**BY E-MAIL**

Sack Thongvanh  
City Administrator  
City of Falcon Heights  
2077 Larpenteur Ave. W  
Falcon Heights, MN 55113-5551

**Re: City of Falcon Heights – Amber Union Multifamily Affordable Housing  
Project: Conduit Revenue Bonds and Tax Increment Financing**

Dear Mr. Thongvanh:

As the City of Falcon Heights (the "City" or "Issuer") is aware, Buhl GTA, LP, a Minnesota limited partnership (the "Borrower"), with Buhl GTA GP, LLC, a Minnesota limited liability company, as the general partner, is acquiring and renovating an existing historic office building into an approximately 128-unit multifamily housing facility, to be known as Amber Union Apartments, for low- and moderate-income individuals and families to be located at 1667 Snelling Avenue, which is on the southwest corner of Snelling Avenue and Larpenteur Avenue, in the City (the "Project").

The Borrower first sought assistance from the City with the financing of the Project a couple of years ago. Specifically, the Borrower requested that the City act as the issuer of multifamily housing development bonds (the "Bonds"). State and federal laws allow local government units to enter into arrangements to issue bonds and loan the proceeds to private developers to finance or refinance affordable housing projects. This assistance reduces borrowing costs for such borrowers and enables them to provide affordable housing for the residents of the City more cost effectively. It is a fairly common means of obtaining necessary financing for such projects. Oftentimes such projects will also take advantage of low-income housing tax credits, which is anticipated with this Project.

To accomplish this purpose, the Issuer will enter into a Loan Agreement with the Borrower under which the Borrower will agree to pay all principal and interest on the Bonds. The Issuer will assign all of its rights to payments under the Loan Agreement to a lender or trustee and loan

the purchase price of the Bonds directly to the Borrower. The Issuer is merely a conduit and the money and obligations flow only between the lender or trustee and the Borrower.

The Bonds and the resolutions adopted by the Issuer will recite that the Bonds, if and when issued, will not be payable from or charged upon any of the Issuer's funds, other than the revenues received under the Loan Agreement and pledged to the payment of the Bonds, and the Issuer is not subject to any liability on the Bonds. No holder of the Bonds will ever have the right to compel any exercise by the Issuer of its taxing powers to pay any of the principal of the Bonds or the interest or premium thereon, or to enforce payment of the Bonds against any property of the Issuer except the interests of the Issuer in payments to be made by the Borrower under the Loan Agreement. The Bonds will not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer, except the interests of the Issuer in payments to be made by the Borrower under the Loan Agreement. The Bonds are not moral obligations on the part of the State or its political subdivisions, including the Issuer, and the Bonds will not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

The issuance of the Bonds will not affect the Issuer's credit rating on bonds it issues for municipal purposes.

Unlike the 501(c)(3) bonds that the City is familiar with, multifamily housing development bonds are not applied against the City's \$10,000,000 calendar year-limit on bank-qualified bonds. Therefore, the City may issue the Bonds, while still maintaining its ability to issue up to \$10,000,000 of bank-qualified bonds for itself or 501(c)(3) organizations. The City's one-time issuer administration fee of  $\frac{1}{4}$  of 1% would be calculated based on the principal amount of the Bonds actually issued.

The Bonds will be issued in accordance with Minnesota Statutes, Chapter 462C. The City Council has approved multiple times the submission of applications for volume cap allocation for this Project. These applications have been made to Minnesota Management and Budget ("MMB"). You may recall that in 2019, a partial allocation of \$3,622,377 (out of the \$40,000,000 requested) was received, but it was insufficient for the Project to move forward. Temporary bonds were issued in 2019 for that smaller amount. The most recent application, submitted in January of this year, received an allocation of \$23,351,811. The Bonds proposed to be issued will provide for both the refunding of the 2019 bonds and the larger allocation received in 2021.

The next step in the issuance of the Bonds is to adopt a resolution authorizing the issuance of the Bonds, which has been provided to the City by Taft law firm (formerly Briggs and Morgan), the City's Bond Counsel. No public hearing is required, as that was held in 2019.

In addition to the Bonds, the Borrower also requested the City to provide Tax Increment Financing for the Project. State law allows local units of government to create districts, in which a certain amount of tax revenue can be captured to support the financing of projects that couldn't otherwise be accomplished without such assistance. Over the past couple of months, the City has

May 6, 2021

Page 3

worked to establish Tax Increment Financing District No. 1-4, which is categorized as a housing district under Minnesota Statutes, Section 469.174, subd. 11. In consultation with Ehlers, the City's municipal advisor, the projected tax increment that will be used to reimburse the Borrower for the costs of the Project is in an amount not to exceed \$1,565,037. This amount will be paid over time, on a semi-annual basis, in amounts based on the portion of taxes received by the City from the County for the prior six-month period, pursuant to the Development Agreement between the City and Borrower.

As is typical of complex transactions financing affordable housing projects, such as this, the purchasers of the Bonds are requiring the tax increment payments to be assigned to purchasers. This means that the City will make the semi-annual payments discussed above directly to the purchasers, pursuant to the Assignment of Payments Under Tax Increment Revenue Note, which has been included in your council packet, along with a resolution that approves the assignment and authorizes the execution of the City's consent therefor, for consideration at the May 12<sup>th</sup> City Council meeting.

Please feel free to contact me if you have any further questions or comments.

Sincerely,

Taft Stettinius & Hollister LLP

  
Catherine J. Courtney

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF FALCON HEIGHTS, MINNESOTA

**MULTIFAMILY HOUSING REVENUE REFUNDING NOTE  
(AMBER UNION PROJECT)  
SERIES 2021**

\_\_\_\_\_, 2021

No. R-1

\$26,974,188

For value received the CITY OF FALCON HEIGHTS, MINNESOTA (the “Issuer”), hereby promises to pay to BRIDGEWATER INVESTMENT MANAGEMENT, INC., a Minnesota corporation, its successors or registered assigns (the “Lender”), from the source and in the manner hereinafter provided, the principal sum of Twenty-Six Million Nine Hundred Seventy-Four Thousand One Hundred Eighty-Eight and no/100 Dollars (\$26,974,188), or so much thereof as has been advanced hereunder and remains unpaid from time to time (the “Principal Balance”), with interest on the outstanding Principal Balance as set forth below. All payments of principal and interest on this Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021A (the “Note”) shall be made in any coin or currency which, at the time or times of payment, are legal tender for the payment of public or private debts in the United States of America, in accordance with the terms hereinafter set forth.

(1) Interest on each advance hereunder shall accrue interest at an annual rate equal to 280 basis points plus the 30-day Secured Overnight Financing Rate (the “Index”) in effect [two] Banking Days prior to the Reprice Date, such rate to be reset daily on each Reprice Date; provided however, the rate of interest payable hereunder shall not be less than 3.25% on any Reprice Date. The term “Banking Day” means any date (other than a Saturday or Sunday) on which commercial banks are open for business in Minneapolis, Minnesota. The term “Reprice Date” means each Business Day. If the initial advance under this Note occurs other than on a Reprice Date, the initial Index shall be the Index in effect [two] Banking Days prior to the date hereof, which rate plus the percentage described above shall be in effect until the next Reprice Date. Lender’s internal records of applicable interest rates shall be determinative in the absence of manifest error. Interest shall be computed on the basis of actual days elapsed in a year of 360 days.

(2) Notwithstanding the foregoing, upon the failure to pay the principal of or interest on this Note when due or upon the occurrence of any Event of Default, as hereafter defined, interest on the Principal Balance shall accrue at an annual rate which is 300 basis points in excess of the interest rate otherwise payable hereunder (“Default Rate”). The interest rate may also be adjusted to the Default Rate as provided in Section 8 below.

(3) Interest is payable beginning [July \_\_\_], 2021, and on the \_\_\_ day of each consecutive month thereafter, plus a final interest payment with the final payment of principal.

(4) Principal is payable on [January \_\_\_], 202[4] (the “Maturity Date”), subject to an extension at the option of the Borrower for six (6) months and subject to mandatory purchase in accordance with Section 9 hereof.

(5) A late payment fee in an amount equal to 5% of the delinquent amount shall be paid with respect to all payments not made within 10 days of the date due. The late payment fee shall not apply to a payment of all principal due upon maturity or acceleration.



(6) Payments shall be applied first to any fees owing to the Lender, second to accrued and unpaid interest on the Principal Balance, and thereafter to reduction of the Principal Balance.

(7) In any event, the payments hereunder shall be sufficient to pay all principal and interest due, as such principal and interest becomes due, at maturity, upon earlier redemption and prepayment, or otherwise.

(8) Upon the occurrence of a “Determination of Taxability” as that term is defined in Section 4.5 of the Loan Agreement, dated as of **[June]** 1, 2021 (the “Loan Agreement”), between the Issuer and Buhl GTA, LP, a Minnesota limited partnership (the “Borrower”), relating to the Note, the interest rate per annum on this Note shall be immediately adjusted to be equal to the Default Rate. In addition, the Lender shall be entitled to receive upon demand an amount equal to the aggregate difference between the monthly payments theretofore made to the Lender on this Note and the monthly payments which would have been made during such period if the Default Rate had been in effect from and after the “Date of Taxability,” as that term is defined in Section 4.5 of the Loan Agreement.

(9) In lieu of providing for a balloon maturity of this Note prior to the Maturity Date, the Lender has agreed to the terms of this paragraph. This Note is subject to mandatory purchase by the Borrower on **[December \_\_\_\_]**, 202**[3]** (the “Purchase Date”). At the option of the Borrower, the Purchase Date may be extended for six (6) months and all principal of and interest on the Note shall be paid in full on the Maturity Date if all the conditions for an extension set forth in Section 1 of the Loan Purchase Agreement, dated the date hereof (the “Loan Purchase Agreement”), between the Borrower and the Lender, have been met. On the Purchase Date, the Lender shall deliver this Note to the Borrower and this Note shall be purchased by the Borrower at a price equal to the sum of: (i) the outstanding Principal Balance of this Note as of the Purchase Date; plus (ii) accrued and unpaid interest on this Note to the Purchase Date; plus (iii) all other amounts owing from the Borrower to the Lender under the Loan Documents (as such term is defined in the Loan Purchase Agreement) as of the Purchase Date. If this Note is not purchased by the Borrower on the Purchase Date, such failure to purchase this Note shall constitute an event of default under this Note and shall constitute an “Event of Default” under the Loan Agreement.

(10) Principal and interest due hereunder shall be payable at the following office of the Lender, or at such other place as the Lender may designate in writing: Bridgewater Investment Management, Inc., 4400 Excelsior Boulevard, St. Louis Park, Minnesota 55416.

(11) This Note is issued by the Issuer to provide funds for a multifamily housing development, as defined in Minnesota Statutes, Section 462C, as amended, consisting of finance the acquisition, rehabilitation, conversion, construction and equipping of an approximately 125-unit multifamily rental housing development and functionally related facilities located at 1667 Snelling Avenue (the “Project”) in the City of Falcon Heights, Minnesota (the “City”), and this Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Minnesota, particularly Minnesota Statutes, Chapter 462C, as amended, and pursuant to a resolution of the governing body of the Issuer duly adopted on May 12, 2021 (the “Resolution”).

(12) The proceeds of this Note are being loaned by the Issuer to the Borrower pursuant to the terms and conditions of the Loan Agreement. This Note is secured by, among other documents and instruments: (i) an Assignment of Loan Agreement, dated as of **[July]** 1, 2021 (the “Assignment of Loan Agreement”), between the Issuer, the Borrower, and the Lender; (ii) **[a Collateral Assignment of Loan Proceeds, a Pledge of Deposit Account, an Assignment of Capital Contributions, a Collateral Assignment of Contract Rights, a Collateral Assignment of Tax Credit Certificate issued by the Minnesota State Housing Preservation Office, each dated the date hereof, from Borrower to the**

**Lender; Pledge Agreement executed by \_\_\_\_\_ and \_\_\_\_\_ of each entity's membership interest in \_\_\_\_\_ to Lender; Pledge Agreement of Deposit Account by \_\_\_\_\_ in favor of Lender; Pledge Agreement of Deposit Account by \_\_\_\_\_, in favor of Lender (collectively, the "Security Documents"), each dated the date hereof, from Borrower to the Lender][to be updated and confirmed by Lender and Borrower]; (iv) each of the Guaranty agreements, dated as of the date hereof, by Peter Deanovic, an individual; (the "Guarantor"), respectively, in favor of the Lender (the "Guaranty"); and (iii) the other Loan Documents. The proceeds of this Note shall be disbursed pursuant to the terms and conditions of the Disbursing Agreement and the other Loan Documents.**

(13) The Issuer, for itself and its successors and assigns, hereby waives demand, presentment, protest and notice of dishonor; and to the extent permitted by law, the Lender may extend interest and/or principal of or any service charge or premium due on this Note, or release any part or parts of the property and interest subject to any security document from the same, all without notice to or consent of any party liable hereon or thereon and without releasing any such party from such liability and whether or not as a result thereof the interest on this Note is no longer excludable from gross income for federal income tax purposes. Except as provided in (4), in no event, however, may the Maturity Date be extended.

(14) This Note may be prepaid, in whole or in part, at any time without premium or penalty, upon written notice given to the Lender by certified or registered mail, addressed to the Lender at its registered address. On the date fixed for prepayment funds shall be paid to the Lender at its registered address. Upon any partial or full prepayment of the Principal Balance of this Note, there shall also be paid, with respect to the portion of the Principal Balance prepaid, the accrued and unpaid interest on the Principal Balance to be prepaid, plus any reasonable attorneys' fees and costs. Any prepayment shall not affect the monthly payments of principal to be made pursuant to the terms of this Note. No penalty will be imposed if Borrower elects to prepay this Note.

(15) As provided in the Resolution and subject to certain limitations set forth therein, this Note is only transferable upon the books of the Issuer by the Lender in person or by its agent duly authorized in writing, at the Lender's expense, upon surrender hereof together with a written instrument of transfer satisfactory to the City Administrator of the Issuer, duly executed by the Lender or its duly authorized agent. Upon such transfer the City Administrator of the Issuer will note the date of registration and the name and address of the new registered Holder in the registration blank appearing below. The Issuer may deem and treat the person in whose name this Note is last registered upon the books of the Issuer with such registration noted on this Note, as the absolute owner hereof, whether or not overdue, for the purpose of receiving payment of or on the account of the Principal Balance, redemption price, or interest and for all other purposes, and all such payments so made to the Lender or upon its order shall be valid and effective to satisfy and discharge the liability upon this Note to the extent of the sum or sums so paid, and the Issuer shall not be affected by any notice to the contrary.

(16) All of the agreements, conditions, covenants, provisions, and stipulations contained in the documents described in Section 12 and any other documents securing this Note (collectively, the "Security Documents") are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein.

(17) This Note and interest thereon and any service charge or premium due hereunder (payable solely from payments to be made by the Borrower under the Security Documents) do not constitute a debt of the Issuer or the City within the meaning of any constitutional or statutory limitation, are not payable from or a charge upon any funds other than the revenues and proceeds pledged to the payment thereof, and do not give rise to a pecuniary liability of the Issuer or the City or, to the extent permitted by law, of any of its officers, agents, or employees, and no holder of this Note shall ever have the right to compel any exercise

of the taxing power of the Issuer or the City to pay this Note or the interest thereon, or to enforce payment thereof against any property of the Issuer or the City, and this Note does not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer or the City, and the agreement of the Issuer to perform or cause the performance of the covenants and other provisions herein referred to shall be subject at all times to the availability of revenues or other funds furnished for such purpose in accordance with the Loan Agreement, sufficient to pay all costs of such performance or the enforcement thereof.

(18) It is agreed that time is of the essence of this Note. If an Event of Default (as that term is defined in the Loan Purchase Agreement or the Loan Agreement) shall occur, then the Lender shall have the right and option to declare the Principal Balance and accrued interest thereon, immediately due and payable, whereupon the same, plus any other amounts owing to the Lender, shall be due and payable (but shall be payable solely from payments to be made by the Borrower under the Security Documents). Failure to exercise such option at any time shall not constitute a waiver of the right to exercise the same at any subsequent time.

(19) The remedies of the Lender, as provided herein and in the Security Documents, are not exclusive and shall be cumulative and concurrent and may be pursued singly, successively, or together, at the sole discretion of the Lender, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

(20) The Lender shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Lender and, then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

(21) This Note has been issued without registration under state or federal or other securities laws, pursuant to an exemption for such issuance; and accordingly this Note may not be assigned or transferred in whole or part, nor may a participation interest in this Note be given pursuant to any participation agreement, except in accordance with an applicable exemption from such registration requirements.

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

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed in its name and has caused this Note to be dated as of the date first written above.

CITY OF FALCON HEIGHTS, MINNESOTA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Administrator

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

NOTE REGISTER

The ownership of the unpaid Principal Balance of this Note and the interest accruing thereon is registered on the books of the City of Falcon Heights, Minnesota, in the name of the holder last noted below.

Date of Registration	Name and Address Registered Owner	Signature of Executive Director
2021	Bridgewater Investment Management, Inc. 4400 Excelsior Boulevard St. Louis Park, MN 55416	

21630303v2

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**LOAN AGREEMENT**

**between**

**CITY OF FALCON HEIGHTS, MINNESOTA**

**and**

**BUHL GTA, LP**

**Dated as of \_\_\_\_\_, 2021**

**Relating to:**

**\$26,974,188  
City of Falcon Heights, Minnesota  
Multifamily Housing Revenue Refunding Note  
(Amber Union Project)  
Series 2021**

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Except for certain reserved rights, the interest of the City of Falcon Heights, Minnesota in this Loan Agreement has been pledged and assigned to Bridgewater Investment Management, Inc., pursuant to an Assignment of Loan Agreement of even date herewith.

This instrument was drafted by:  
Taft Stettinius & Hollister LLP  
2200 IDS Center  
80 South 8th Street  
Minneapolis, Minnesota 55402

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## LOAN AGREEMENT

This Loan Agreement, dated as of \_\_\_\_\_, 2021 (the “Agreement”), is made and entered into by and between the City of Falcon Heights, Minnesota, a municipal corporation and a political subdivision of the State of Minnesota (the “Issuer”), and Buhl GTA, LP, a Minnesota limited partnership (the “Borrower”).

The Issuer and the Borrower each in consideration of the representations, covenants, and agreements of the other as set forth herein, mutually represent, covenant, and agree as follows:

### ARTICLE I

#### DEFINITIONS, EXHIBITS AND RULES OF INTERPRETATION

Section 1.1 Definitions. In this Agreement the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

Act: Minnesota Statutes, Sections 462C, as amended.

Agreement: this Loan Agreement, dated as of \_\_\_\_\_, 2021, between the Issuer and the Borrower, as the same may from time to time be amended or supplemented as herein provided.

Assignment of Loan Agreement: the Assignment of Loan Agreement, dated as of \_\_\_\_\_, 2021, between the Issuer and the Lender, assigning the Issuer’s interest in the Agreement (except for certain retained rights) to the Lender to the extent provided therein.

Bond Counsel: the firm of Taft Stettinius & Hollister LLP of Minneapolis, Minnesota, or any other firm of nationally-recognized bond counsel experienced in tax-exempt bond financing acceptable to the Issuer, and any opinion of Bond Counsel shall be a written opinion signed by such Bond Counsel.

Borrower: Buhl GTA, LP, a Minnesota limited partnership, its successors and assigns, and any surviving, resulting, or transferee business entity which may assume its obligations in accordance with the provisions of this Agreement.

Borrower Tax Certificate: the Borrower Tax Certificate, dated \_\_\_\_\_, 2021, executed and delivered by the Borrower in connection with the issuance of the Note.

Building: an approximately 125-unit multifamily rental housing development located at 1667 Snelling Avenue, Falcon Heights, Minnesota, to be acquired and rehabilitated or constructed, in part, with the proceeds of the Note and comprising a portion of the Improvements.

Capitalized Interest Reserve Fund: \_\_\_\_\_.

Closing: the date there is physical delivery of the Note to the Lender.

Code: the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

Construction Costs: all direct costs authorized by the Act and paid or incurred by the Borrower to acquire the Land, rehabilitate and complete the Improvements, and acquire and install the Equipment, including, but not limited to, interest on the Note during rehabilitation, site preparation costs, architectural fees, engineering fees, contractor's fees, and all costs of labor, material, and services.

Counsel: an attorney designated by or acceptable to the Lender, duly admitted to practice law before the highest court of any state; and an attorney for the Borrower or the Issuer may be eligible for appointment as Counsel.

Date of Taxability: this term shall have the meaning ascribed to it in Section 4.5(2) hereof.

Determination of Taxability: this term shall have the meaning ascribed to it in Section 4.5(2) hereof.

Disbursing Agreement: the Loan Disbursement Agreement, dated \_\_\_\_\_, 2021 by and among the Borrower, the Lender, and First American Title Insurance Company, as disbursing agent, relating to the disbursement of the proceeds of the Loan and payment of Project Costs for the acquisition, construction and installation of the Improvements and Equipment.

Equipment: any and all machinery, equipment, furniture, and other tangible personal property purchased or to be purchased by the Borrower with the proceeds of the Loan.

Event of Default: any of the events described in Section 6.1 hereof.

FHA: the Federal Housing Administration.

FHA Insured Mortgage Loan: the mortgage loan in the original principal amount of \$[16,295,000] to be advanced by the FHA Lender to the Borrower and insured by FHA under Section 221(d)(4) of the National Housing Act, as amended.

FHA Lender: Colliers Mortgage LLC, a Delaware limited liability company, its successors and assigns.

FHA Loan Documents: \_\_\_\_\_.

Guarantor: Peter Deanovic, an individual;

Guaranty: collectively, each of the Guaranty agreements, dated as of the date hereof, by the Guarantor, respectively, in favor of the Lender, as it may be amended from time to time;

HUD: the United States Department of Housing and Urban Development.

HUD Regulatory Agreement: the Regulatory Agreement for Multifamily Projects dated as of \_\_\_\_\_ 1, 2021 between the Borrower and HUD, related to the FHA Insured Mortgage Loan.

Improvements: the acquisition, rehabilitation, conversion, construction and equipping of an approximately 125-unit multifamily rental housing development and functionally related facilities located at 1667 Snelling Avenue, Falcon Heights, Minnesota and any equipment or tangible personal

property to be constructed or installed by the Borrower, in accordance with the plans and specifications approved by the Lender.

Issuance Expenses: shall mean any and all costs and expenses relating to the issuance, sale, and delivery of the Note, including, but not limited to, any fees of the Lender, all fees and expenses of legal counsel, financial consultants, feasibility consultants, and accountants, any fee to be paid to the Issuer, the preparation and printing of the Related Documents, and all other expenses relating to the issuance, sale, and delivery of the Note and any other costs which are treated as “issuance costs” within the meaning of Section 147(g) of the Code.

Issuer: the City of Falcon Heights, Minnesota, a municipal corporation and a political subdivision of the state of Minnesota, its successors or assigns.

Land: the real property and any other easements and rights described in **Exhibit A** hereto.

Lender: Bridgewater Investment Management, Inc., a Minnesota corporation, its successors and assigns.

Loan: the loan from the Issuer to the Borrower of the proceeds derived from the sale of the Note pursuant to the terms of this Agreement, as described in Section 3.1 of this Agreement.

Loan Purchase Agreement: the Loan Purchase Agreement, dated \_\_\_\_\_, 2021, between the Borrower and the Lender, together with any amendment thereto.

Note Register: the records kept by the Issuer to provide for the registration of transfer of ownership of the Note.

Note: the Series 2021 Note.

Principal Balance: so much of the principal sum of the Note as from time to time remains unpaid.

Prior Note: the Issuer's Multifamily Housing Revenue Note, Series 2019 (Amber Union Apartments Project), issued in the original principal amount of \$3,622,377.

Project: the Land, Building, Improvements, and Equipment as they may at anytime exist.

Project Costs: the total of all Construction Costs and Issuance Expenses.

Regulatory Agreement: the Amended and Restated Regulatory Agreement, dated as of \_\_\_\_\_ 1, 2021, between the Issuer, the Borrower, and the Lender, relating to the Project.

Rehabilitation Expenditures: means any amount properly chargeable to capital account which is incurred by the Borrower (excluding any expenditure described in Section 47(c)(2)(B) of the Code) in connection with the rehabilitation of the Building.

Related Documents: this Loan Agreement, the Assignment of Loan Agreement, the Loan Purchase Agreement, the Disbursing Agreement, the Regulatory Agreement, the Security Documents, the Guaranty, and all other documents securing the Note or the Borrower's obligations under this Agreement.

Resolution: the Resolution of the governing body of the Issuer, adopted May 12, 2021, authorizing the issuance of the Note, together with any supplement or amendment thereto.

Security Documents: a [Collateral Assignment of Loan Proceeds, a Pledge of Deposit Account, an Assignment of Capital Contributions, a Collateral Assignment of Contract Rights, a Collateral Assignment of Tax Credit Certificate issued by the Minnesota State Housing Preservation Office, each dated the date hereof, from Borrower to the Lender; Pledge Agreement executed by \_\_\_\_\_ and \_\_\_\_\_ of each entity's membership interest in \_\_\_\_\_ to Lender; Pledge Agreement of Deposit Account by \_\_\_\_\_ in favor of Lender; Pledge Agreement of Deposit Account by \_\_\_\_\_, Inc., in favor of Lender.] [to be updated by Lender and Borrower]

Series 2021 Note: the Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021, to be issued by the Issuer pursuant to the Resolution in the principal amount not to exceed \$26,974,188.

Treasury Regulations: all proposed, temporary, or permanent federal income tax regulations then in effect and applicable.

#### Section 1.2 Rules of Interpretation.

(1) This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota.

(2) The words "herein" and "hereof" and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision hereof.

(3) References herein to any particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

(4) Where the Borrower is permitted or required to do or accomplish any act or thing hereunder, the Borrower may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Borrower.

(5) The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Agreement.

(6) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(7) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Agreement.

(8) References to the Note as "tax exempt" or to the "tax exempt status of the Note" are to the exclusion of interest on the Note from gross income pursuant to Section 103(a) of the Code.

## ARTICLE II

### REPRESENTATIONS

Section 2.1 Representations by the Issuer. The Issuer makes the following representations as the basis for its covenants herein:

(1) The Issuer is a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota.

(2) To the actual knowledge of the undersigned, without inquiry or investigation, there is no pending or threatened suit, action, or proceeding against the Issuer before any court, arbitrator, administrative agency, or other governmental authority that challenges the execution and delivery by the Issuer of the Note, this Loan Agreement, the Assignment of Loan Agreement, or the Regulatory Agreement (collectively, the "Issuer Documents").

(3) To the actual knowledge of the undersigned, without inquiry or investigation, the execution and delivery of the Issuer Documents will not constitute a breach of or default under any existing (a) provisions of any special legislative act relating to the establishment of the Issuer, or (b) agreement, indenture, mortgage, lease, or other instrument to which the Issuer is a party or by which it is bound.

(4) No proceeding of the Issuer for the issuance and delivery of the Note or the execution and delivery of the Issuer Documents has been repealed, rescinded, amended, or revoked.

(5) Pursuant to Minnesota Statutes, Section 474A.061, subdivision 2a, the Issuer has received an allocation of annual volume cap of bonding authority under Section 146 of the Code for the year 2021 in an amount sufficient, along with the allocation of volume cap received with respect to the Prior Note, to designate the entire aggregate face amount of the Note as an exempt facility bond to be issued to provide a qualified residential rental project, within the meaning of Section 142(d) of the Code, and the Issuer has allocated such volume cap to the Note in an amount equal to the maximum principal amount of the Note.

Section 2.2 Representations by the Borrower. The Borrower makes the following representations as the basis for its covenants herein:

(1) The Borrower is a limited partnership duly organized under the laws of the State of Minnesota, is in good standing and duly authorized and qualified to conduct its business in the State of Minnesota and all other states where its activities require such authorization, has power to enter into the Related Documents to which it is a party and to use the Project for the purpose set forth in this Agreement and by proper corporate action has authorized the execution and delivery of the Related Documents to which it is a party.

(2) The execution and delivery of the Related Documents to which it is a party, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of the Borrower's organizational documents, any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing or, to the best of the Borrower's knowledge, a violation of any order, decree, statute, rule or regulation of any court or of any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Project, and do not and will not result in the creation or imposition of any lien, charge, or

encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound.

(3) The design and plan of the Project comprise a multifamily rental housing development, as contemplated by the Act; and subject to the other provisions of this Agreement, it is presently intended and reasonably expected that any equipment purchased from the proceeds of the Note will be permanently located and exclusively used on the Land and that the Borrower will operate the Project on the Land throughout the term of this Agreement in the normal conduct of the Borrower's business.

(4) The Note is issued within the exemption provided under Section 142(d) of the Code with respect to qualified residential rental projects; and 95% or more of the net proceeds of the Note will be used for expenditures chargeable to the capital account of the Project.

(5) (a) 100% of the residential units in the Project will be eligible for low income housing tax credits under Section 42 of the Code; and (b) all of the residential units of the Project: (1) are reserved for tenants whose income, on average, is 50% of area median income or less; (2) are rent-restricted in accordance with section 42(g)(2) of the Code; and (3) are subject to rent and income restrictions for a period of not less than 30 years.

For purposes of this section, "on average" means the average of the applicable income limitation level for the Project determined on a unit-by-unit basis.

(6) There is public access to the Project; and, as of the date hereof, the use of the Project as designed and proposed to be operated complies, in all material respects, with all presently applicable development, pollution control, water conservation, and other laws, regulations, rules, and ordinances of the federal government and the State of Minnesota and the respective agencies thereof and the political subdivisions in which the Project is located. All necessary and material approvals of and licenses, permits, consents, and franchises from federal, state, county, municipal, or other governmental authorities having jurisdiction over the Project have been or will be obtained to acquire, construct, install, and operate the Project and the Borrower has obtained all necessary approvals to enter into, execute, and perform its obligations under the Related Documents.

(7) The proceeds of the Note, together with any other funds to be contributed to the Project by the Borrower or otherwise in accordance with this Agreement, will be sufficient to pay the cost of completing the rehabilitation of the Project, and all costs and expenses incidental thereto, and the proceeds of the Note will be used only for the purposes contemplated hereby and allowable under the Act.

(8) The Borrower is not in the trade or business of selling properties such as the Project and is constructing the Project for investment purposes only or otherwise for use by the Borrower in its trade or business, and therefore the Borrower has no intention now or in the foreseeable future to voluntarily sell, surrender, or otherwise transfer, in whole or part, its interest in the Project.

(9) There are no actions, suits, or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any property of the Borrower in any court or before any federal, state, municipal, or other governmental agency, which, if decided adversely to the Borrower would have a material adverse effect upon the Borrower or upon the business or properties of the Borrower; and the Borrower is not in default with respect to any order of any court or governmental agency.

(10) The Borrower is not in default in the payment of the principal of or interest on any indebtedness for borrowed money nor in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued.

(11) The Borrower has filed all federal and state income tax returns which, to the knowledge of the general partner of the Borrower, are required to be filed and has paid all taxes shown on said returns and all assessments and governmental charges received by the Borrower to the extent that they have become due.

(12) No public official of the Issuer has either a direct or indirect financial interest in this Agreement nor will any public official either directly or indirectly benefit financially from this Agreement within the meaning of Minnesota Statutes, Section 412.311, as amended, and Minnesota Statutes, Section 471.87, as amended.

(13) No obligations have been or will be issued under Section 103 of the Code which are sold at substantially the same time as the Note, pursuant to the same plan of financing, which are reasonably expected to be paid out of substantially the same source of funds as the Note.

## ARTICLE III

### LOAN TO THE BORROWER

Section 3.1 Amount and Source of Loan. The Issuer has authorized the issuance of the Note and the loan of the proceeds thereof to the Borrower to pay Project Costs. The Issuer agrees to lend to the Borrower, upon the terms and conditions set forth herein, the proceeds of the Note by causing such sums to be advanced to the Borrower upon satisfaction of all terms and conditions set forth herein and in the Loan Purchase Agreement and the Related Documents.

Section 3.2 Disbursement of the Loan. Pursuant to this Agreement and the Act, the Issuer has authorized the Borrower to provide directly for the financing of the Project in such manner as determined by the Borrower and hereby authorizes the Lender to advance the proceeds of the Note in accordance with the provisions of the Loan Purchase Agreement and the Related Documents. On the date of Closing \$\_\_\_\_\_ of the initial advance of the Loan shall be immediately paid to the holder of the Prior Note **[and \$\_\_\_\_\_ shall be deposited in the Capitalized Interest Reserve Fund] [other uses at closing?].**

Section 3.3 Repayment of the Loan. Subject to the prepayment provisions set forth in Sections 5.1 and 5.2 and in the Note, the Borrower agrees to repay the Loan by making all payments of principal, interest, redemption price, and any premium, penalty, or charge that are required to be made by the Issuer under the Note at the times and in the amounts provided therein. All payments shall be made directly to the Lender for the account of the Issuer. The Borrower shall also pay the reasonable fees and expenses of the Issuer, including the Issuer's administrative fee and the reasonable fees and expenses of the Issuer's counsel in connection with issuance of the Note. **[Notwithstanding anything to the contrary, for so long as HUD is the holder or insurer of a loan encumbering the Project, all payments on the Loan shall be made solely from [the Capitalized Interest Reserve Fund, from] the collateral pledged under the Security Documents securing the Loan, from the Guaranty, from insurance proceeds or from "Surplus Cash" as defined in the HUD Regulatory Agreement. No claims shall be made under this Loan Agreement against the Project, FHA Lender, the Borrower, except for claims related to collateral pledged under the Security Documents securing the Loan, proceeds of the FHA Insured Mortgage Loan, or any reserves or deposits required by HUD in connection with the Project, or the rents or deposits or other income of the Project.]**

Section 3.4 Borrower's Obligations Unconditional. All payments required of the Borrower hereunder shall be paid without notice or demand and without setoff, counterclaim, abatement, deduction, or defense. The Borrower will not suspend or discontinue any payments, and will perform and observe all of its other agreements in this Agreement, and, except as expressly permitted herein, will not terminate this Agreement for any cause, including but not limited to any acts or circumstances that may constitute failure of consideration, destruction or damage to the Project, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the Issuer or the Lender, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State of Minnesota or any political subdivision thereof, or failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement.

Section 3.5 Borrower's Remedies. Nothing contained in this Article shall be construed to release the Issuer from the performance of any of its agreements in this Agreement.



Section 3.6 Administrative Fee. The Borrower agrees to pay to the Issuer an administrative fee of **[\$60,238.33]** (equal to 0.25% of the principal amount of the Note less the amount paid to the Issuer upon the issuance of the Prior Note) on the Closing Date. The administrative fee is not pledged to payment of the Note and may be used by the Issuer for any proper purpose of the Issuer. In addition, the Borrower has paid to the Issuer a non-refundable application fee charged by Minnesota Management and Budget for entitlement authority for housing revenue bonds in the amount of \$4,680.

Section 3.7 Capitalized Interest Reserve Fund. **[Please confirm requirement and provide terms].**

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## ARTICLE IV

### BORROWER'S COVENANTS

Section 4.1 Financial Reporting. The Borrower will deliver to the Lender financial information of the Borrower upon such terms and conditions as are imposed by the terms of the Loan Purchase Agreement.

Section 4.2 Indemnity. The Borrower will, to the extent permitted by law, pay, and will protect, indemnify, and save the Issuer, its officers, agents, and employees harmless from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands, and judgments of any nature (collectively, "Losses") arising from:

- (1) any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the use, non-use, condition, or occupancy of the Project or a part thereof;
- (2) violation of any agreement or condition of this Agreement, except by the Issuer;
- (3) violation of any contract, agreement, or restriction by the Borrower relating to the Project;
- (4) violation of any law, ordinance, or regulation affecting the Project or a part thereof or the ownership, occupancy, or use thereof, or arising out of this Agreement, the Note, or the transactions contemplated thereby, including any requirements imposed on the Lender as a financial institution or any disclosure or registration requirements imposed by any federal or state securities law; and
- (5) any statement or information relating to the expenditure of the proceeds of the Note contained in the Borrower Tax Certificate or similar document furnished by the Borrower to the Issuer which, at the time made, is misleading, untrue, or incorrect in any material respect.

Notwithstanding the foregoing, the Borrower shall not be responsible for any Losses arising from the willful misconduct or gross negligence of the Issuer, its officers, agents, or employees. **[Further, the Borrower's source of payment of any indemnification costs found under this Section 4.2, for so long as HUD is the insurer or holder of a loan encumbering the Project will be limited to available liability insurance proceeds, collateral pledged under the Security Documents securing the Loan, from the Guaranty, and/or Surplus Cash, as such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Borrower and HUD.]**

Section 4.3 Reports to Governmental Agencies. The Borrower will furnish to agencies of the State of Minnesota, including but not limited to the Minnesota Housing Finance Agency, such periodic reports or statements as are required under the Act, or as they may otherwise reasonably require of the Issuer or the Borrower throughout the term of this Agreement in connection with the transaction contemplated herein; provided, however, the Issuer shall promptly notify the Borrower of any reports or statements being required by agencies of the State of Minnesota of which the Issuer has received notice to allow the Borrower a reasonable and adequate amount of time to prepare and submit any such reports or statements. Copies of such reports will be provided, upon request, to the Issuer and, upon request, to the Lender.

Section 4.4 Security for the Loan. As additional security for the Loan, and to induce the Issuer to issue and deliver the Note, the Borrower agrees to execute and deliver the Related Documents and such other documents reasonably requested by Counsel, in such places and in such manner as Counsel deems necessary or desirable to perfect or protect the security interest of the Lender in and to the Project and other collateral referred to in such documents; provided that no such instruments or acts shall change the economic terms of the transactions described herein or expand the liabilities of the parties hereunder without the consent of all the parties hereto.

Section 4.5 Preservation of Tax Exemption.

(1) In order to ensure that interest on the Note shall at all times be excludable from gross income for federal income tax purposes, the Borrower represents, warrants, and covenants with the Issuer and the Lender that it will comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and applicable Treasury Regulations promulgated thereunder as follows:

(a) The Borrower will have acquired title to the Land on or before the date of delivery of the Note and no more than 25% of the net proceeds of the Note will be allocated to the acquisition of the land; the Project will continue to be owned and operated by the Borrower, except as provided in Section 4.6, and in no event will the Project be managed in a manner that would cause interest on the Note to be includable in gross income for federal income tax purposes.

(b) The Borrower will fulfill all continuing conditions specified in Section 142 of the Code and Section 1.103-8(b) of the Treasury Regulations applicable thereunder, to qualify the Note as an “exempt facility bond” issued to provide a “qualified residential rental project” thereunder and to qualify the Project as a “qualified residential rental project” thereunder; and the Borrower shall fulfill its obligations under the Regulatory Agreement.

(c) At least 95% of the net proceeds of the Note will be used to finance costs properly chargeable to the capital account of a “qualified residential rental project,” and functionally related and subordinate property thereto, within the meaning of Section 142(d) of the Code, and Rehabilitation Expenditures with respect to the Building shall equal or exceed 15% of the portion of the cost of acquiring the Building financed with the proceeds of the Note and such Rehabilitation Expenditures shall be incurred on or before the date that is 2 years after the later of: (i) the date on which the Building was acquired by the Borrower; or (ii) the date on which the Note was issued.

(d) The Borrower understands that the Code imposes a penalty for failure to file with the Secretary of the Treasury an annual certification of compliance with low income occupancy requirements, and if the requirements for a “qualified residential rental project” are not met, does not allow deduction for interest paid on the Note which accrues during the period beginning on the first day of the taxable year in which the Project ceases to meet such requirements and ending on the date the Project again meets such requirements.

(e) In order to qualify the Note and this Agreement under the “governmental program” provisions of Section 1.148-2(d)(2)(iii) of the Treasury Regulations, the Borrower (and any “related person” thereto) will take no action the effect of which would be to disqualify this Agreement as a “program investment” under Section 1.148-1(b), including but not limited to entering into any arrangement, formal or informal, for the Borrower or any related person to purchase any obligations that finance the program in an amount related to the amount of the Agreement.

(f) The Borrower has not paid or incurred any costs (except for “preliminary expenditures” (within the meaning of Treasury Regulations, Section 1.150-2(f)(2)) for the Project, including engineering or architectural expenses and similar preparatory expenses, which in the aggregate do not exceed 20% of the aggregate “issue price” of the Note, or expenditures in the de minimis amount of \$100,000 (as defined in Treasury Regulations, Section 1.150-2(f)(1)) to be reimbursed from proceeds of the Note before the date 60 days before May 22, 2019, the date of adoption by the City Council of the City on behalf of the Issuer of a preliminary resolution which complies with the provisions of Treasury Regulations, Section 1.150-2(d) and (e), as a written declaration of official intent to reimburse expenditures.

(g) The weighted average maturity of the Note will not exceed the estimated economic life of the Project by more than 20%, all within the meaning of Section 147(b) of the Code.

(h) While the Note remains outstanding, no portion of the proceeds of the Note will be used to provide any airplane, skybox or other private luxury box, any facility primarily used for gambling, or a store, the principal business of which is the sale of alcoholic beverages for consumption off premises.

(i) Any Issuance Expenses financed by the Note shall not exceed 2% of the proceeds of the Note.

(j) The Borrower agrees it will not use the proceeds of the Note in such a manner as to cause the Note to be an “arbitrage bond” within the meaning of Section 148 of the Code and applicable Treasury Regulations.

(k) The Borrower, on behalf of the Issuer, shall pay to the United States, as a rebate, an amount equal to the sum of (A) the excess of (i) the aggregate amount earned on all nonpurpose investments (other than investments attributable to an excess described in this clause), over (ii) the amount which would have been earned if all nonpurpose investments were invested at a rate equal to the yield on the Note, plus (B) any income attributable to the excess described in clause (A), at the times and in the amounts required by Section 148(f) of the Code and applicable Treasury Regulations, all within the meaning of Section 148(f) of the Code and applicable Treasury Regulations. The Borrower shall maintain records of the interest rate borne by the Note of any rebate required to be made to the United States at times and in installments which satisfy Section 148(f) of the Code and applicable Treasury Regulations, at least once every 5 years and within 60 days after the day on which the Note are paid in full. Calculations of the amount to be rebated shall be made at least once every 5 years (or at such other times as may be required by Section 148(f) of the Code and applicable Treasury Regulations) and the Lender shall be furnished with such calculations within 60 days of the time they are made. If the Lender is not furnished with such calculations, the Lender may undertake to have such calculations made at the expense of the Borrower. Such calculations shall be retained until 6 years after the Note are paid in full. The rebate shall be calculated as provided in Section 148(f) of the Code and Treasury Regulations, Sections 1.148-0 through 1.148-9, including taking into account the gain or loss on the disposition of nonpurpose investments. The Borrower shall acquire, and shall cause the Lender to acquire, all nonpurpose investments at their fair market value in arm’s length transactions.

(l) The Borrower has not leased, sold, assigned, granted, or conveyed and will not lease, sell, assign, grant, or convey all or any portion of the Project or any interest therein to

the United States, or any agency or instrumentality thereof, within the meaning of Section 149(b) of the Code.

(m) In addition to the Note, no other obligations have been or will be issued under Section 103 of the Code which are sold at substantially the same time as the Note pursuant to a common plan of marketing and at substantially the same rate of interest as the Note and which are payable in whole or part by the Borrower or otherwise have with the Note any common or pooled security for the payment of debt service thereon, or which are otherwise treated as the same "issue of obligations" as the Note under Treasury Regulations, Section 1.50(1)(c)(1).

(n) The Borrower will observe the requirements of this Agreement with respect to the obligations imposed by applicable provisions of the Code and the representations, warranties, covenants, and requirements of the Borrower Tax Certificate.

(o) No proceeds of the Note shall be invested in investments which cause the Note to be federally guaranteed within the meaning of Section 149(b) of the Code.

(p) The Borrower will not otherwise use proceeds of the Note, or take or fail to take any action, the effect of which would be to impair the exclusion of interest on the Note from gross income for federal income tax purposes.

(2) For the purpose of this Section, a "Determination of Taxability" shall mean the issuance of a statutory notice of deficiency by the Internal Revenue Service, or a ruling of the National Office or any District Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction, or a change in any applicable federal statute, which holds or provides in effect that the interest payable on the Note is included, for federal income tax purposes under Section 103 of the Code, in the gross income of the Lender or any other holder or prior holder of the Note, if the period, if any, for contest or appeal of such action, ruling, or decision by the Borrower or Lender or any other interested party has expired without any such contest or appeal having been properly instituted by the Lender, the Borrower, or any other interested party. The expenses of any such contest shall be paid by the party initiating the contest, and neither the Lender nor the Borrower shall be required to contest or appeal any Determination of Taxability. The "Date of Taxability" shall mean that point in time, as specified in the determination, ruling, order, or decision, that the interest payable on the Note becomes included in the gross income of the Lender or any other holder or prior holder of the Note, as the case may be, for federal income tax purposes.

(3) If the Lender receives notice of a "Determination of Taxability" and delivers to the Borrower a copy of that notice, the rate of interest on the Note shall be automatically adjusted and additional charges shall be paid as provided in the Note and the Borrower shall be obligated to pay the same as provided in Section 3.4 herein.

(4) If the Borrower becomes aware of a Determination of Taxability it will promptly give notice of such Determination of Taxability to the Issuer and the Lender.

Section 4.6 Lease or Sale of Project. Except as permitted under the terms of the Loan Purchase Agreement, the Borrower shall not lease, sell, convey, or otherwise transfer the Project, in whole or part, without first securing the written consent of the Lender; provided that in no event shall any lease, transfer, assignment, or sale be permitted if the effect thereof would be to cause the Note to be deemed issued in violation of the requirement under Section 142(a) of the Code, and the Treasury Regulations promulgated thereunder, that substantially all of the net proceeds of the Note be used to

provide a qualified residential rental project, or under the Act that no portion of the Project to be financed from proceeds of the Note be acquired in whole or part for sale, nor shall any such transaction be permitted if the effect thereof would otherwise be to impair the validity or the tax-exempt status of the Note, nor shall any such transaction release the Borrower of any of its obligations under this Agreement. The Borrower shall promptly notify the Issuer and the Lender of any such sale, transfer, assignment, or lease. Notwithstanding the foregoing, the following transfers shall not require prior consent of the Lender: (i) transfers of the Borrower's limited partnership interests and (ii) removal and replacement of the Borrower's general partnership pursuant to the Borrower's amended and restated agreement of limited partnership.

Section 4.7 Project Operation and Maintenance Expenses. The Borrower shall pay all expenses of the operation and maintenance of the Project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, all in conformance with the provisions of the Loan Purchase Agreement.

Section 4.8 Notification of Changes. The Borrower covenants and agrees that it will promptly notify the Issuer and the Lender of:

- (1) any litigation which might materially and adversely affect the Borrower and any of its properties;
- (2) the occurrence of any Event of Default under this Agreement the occurrence of any “Event of Default” under the Related Documents or any other loan agreement, debenture, note, purchase agreement, or other agreement providing for the borrowing of money by the Borrower or any event of which the Borrower has knowledge and which, with the passage of time or giving of notice, or both, would constitute an Event of Default under this Loan Agreement or an “Event of Default” under the Related Documents or such other agreements; and
- (3) any material adverse change in the operations, business, properties, assets, or conditions, financial or otherwise, of the Borrower.

Section 4.9 Maintenance of Facility as Qualified Residential Rental Project. The Borrower covenants that following its acquisition and construction of the Project and subject to the provisions of any recorded document amending, terminating, or deleting such covenants, the Project is to be owned, operated, and managed as a “qualified residential rental project” within the meaning of Section 142(d) of the Code. To that end, the Borrower further represents, covenants and agrees that it shall fulfill its obligations under the Regulatory Agreement.

Section 4.10 Development Fee. **[Any development fee payable to the Borrower or its Affiliates (the “Developer Fee”) shall not exceed [15%] of the total development costs of the Project as certified by the Developer to the Issuer upon completion of the Project net of the Developer Fee, construction management fee and capitalized reserves. The Borrower represents, warrants and agrees with the Issuer that a significant portion of the Developer Fee will be deferred and paid only from Surplus Cash (as defined in the Regulatory Agreement for Multifamily Projects by and between the Borrower and HUD).]** [KMM: Confirm what is needed here. The statement appears to be true based on current sources/uses.]

## ARTICLE V

### PREPAYMENT OF LOAN

Section 5.1 Prepayment at Option of Borrower. The Borrower may at its option prepay the Loan, in whole or part, by prepaying a like amount of the Principal Balance of the Note, but only in the manner, at the times and under the conditions provided in the Note.

Section 5.2 Termination Upon Retirement of the Note. At such time as (a) no Principal Balance on the Note remains outstanding, (b) any obligation of the Lender to advance funds under this Agreement, the Note, the Loan Purchase Agreement, or the Related Documents has expired, and (c) arrangements satisfactory to the Lender and the Issuer have been made for the prepayment or discharge of all other accrued liabilities, if any, under the Related Documents, this Agreement will by its terms terminate and any and all obligations of Borrower and Guarantor under the Loan Documents will be deemed satisfied.

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## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

Section 6.1 Events of Default. Any one or more of the following events continuing beyond any applicable cure period is an Event of Default under this Agreement:

(1) If the Borrower shall fail to make any payments required under this Agreement on or before the date that the payment is due and such default continues for 10 calendar days.

(2) If the Borrower shall fail to observe and perform any other covenant, condition, or agreement on its part under this Agreement for a period of 30 days after written notice (a "Default Notice"), specifying such default and requesting that it be remedied, given to the Borrower by the Issuer or the Lender, or for such longer period as may be reasonably necessary to remedy such default provided that the Borrower is proceeding with reasonable diligence to remedy the same, but not exceeding 90 days after the Default Notice is given, unless the Lender shall agree in writing to an extension of such time prior to its expiration.

(3) If the Borrower shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, shall consent to the entry of an order for relief pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall make an assignment for the benefit of its creditors or shall admit in writing its inability to pay its debts generally as they become due, or if a petition or answer proposing the entry of an order for relief of the Borrower under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be filed in any court and such petition or answer shall not be discharged or denied within 90 days after the filing thereof, or a receiver, trustee, or liquidator of the Borrower of all or substantially all of the assets of the Borrower, or of the Project, shall be appointed in any proceeding brought against the Borrower and shall not be discharged within 180 days after such appointment or if the Borrower shall consent to or acquiesce in such appointment, or if the estate or interest of the Borrower in the Project or a part thereof shall be levied upon or attached in any proceeding and such process shall not be vacated or discharged within 180 days after such levy or attachment.

(4) If the partnership agreement of the Borrower shall expire or be annulled; or if the Borrower shall be dissolved or liquidated or shall be merged with or is acquired by another business entity.

(5) If any representation or warranty made by the Borrower herein, or by an officer or representative of the Borrower in any document or certificate furnished the Lender or the Issuer in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be, in any material respect, incorrect or misleading as of the date made, and is not cured within 30 days after a Default Notice, specifying such default and requesting that it be remedied, has given to the Borrower by the Issuer or the Lender; provided that such period may be extended up to 60 days if the Borrower provides evidence to the Lender that it is proceeding with due diligence to cure such default before the initial 30 days expire.

(6) If the Borrower shall default or fail to perform any covenant, condition, or agreement on its part under any of the Related Documents or any other security document securing the Note, and such failure continues beyond the period, if any, set forth in such documents during which the Borrower may cure the default.



Any partner of the Borrower shall have the right, but not the obligation, to cure any default under this Agreement within the same cure period afforded to the Borrower to cure such default.

Section 6.2 Remedies. Whenever any Event of Default referred to in Section 6.1 hereof shall have happened, any one or more of the following remedial steps to the extent permitted by law may be taken:

(1) The Issuer, upon written direction of the Lender, or the Lender may declare all installments of the Loan (being an amount equal to that necessary to pay in full the Principal Balance plus accrued interest thereon and any premium due thereunder of the Note assuming acceleration of the Note under the terms thereof and to pay all other indebtedness thereunder) to be immediately due and payable, whereupon the same shall become immediately due and payable by the Borrower; or

(2) The Issuer, upon written direction of the Lender (except as otherwise provided in Section 7.10 herein), or the Lender (in either case at no expense to the Issuer) may take whatever action at law or in equity may appear necessary or appropriate to collect the amounts then due and thereafter to become due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under this Agreement.

Section 6.3 Disposition of Funds. Notwithstanding anything to the contrary contained in this Agreement, any amounts collected, up to the amounts due, pursuant to action taken under Section 6.2 hereof, except for any amounts collected solely for the benefit of the Issuer under any of the provisions set forth in Section 7.10, shall, after deducting all expenses incurred in collecting the same, be applied as a prepayment of the Note in accordance with Section 5.1.

Section 6.4 Manner of Exercise. No remedy herein conferred upon or reserved to the Issuer or the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Lender to exercise any remedy reserved to either of them in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 6.5 Attorneys' Fees and Expenses. In the event the Borrower should default under any of the provisions of this Agreement and the Issuer or the Lender should employ attorneys or incur other expenses for the collection of amounts due hereunder or the enforcement of performance of any obligation or agreement on the part of the Borrower, the Borrower will on demand pay to the Issuer or the Lender the reasonable fee of such attorneys and such other expenses so incurred.

Section 6.6 Effect of Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE VII

### GENERAL

Section 7.1 Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, and the Lender may, by written notice given by each to the others, designate any address or addresses to which notices, certificates, or other communications to them shall be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, certificates, and communications to each of them shall be addressed as follows:

To the Issuer	City of Falcon Heights, Minnesota 2077 Larpenteur Avenue Wet Falcon Heights, MN 55113 Attn: City Administrator
To the Borrower:	Buhl GTA, LP c/o Buhl Investors 5100 Eden Avenue, Suite 317 Edina, MN 55436 Attn: Peter Deanovic
With a copy to:	Winthrop & Weinstine, P.A. Capella Tower, Suite 3500 225 South Sixth Street Minneapolis, MN 55402-4629 Attn: Kevin M. McLain
and Investor Limited Partner:	RBC Community Investments, LLC 600 Superior Avenue, Suite 2300 Cleveland, OH 44114 Attn: President and General Counsel
With a copy to	Nixon Peabody LLP Exchange Place, 53 State Street Boston, MA 02109 Attn: Roger W. Holmes
To the Lender:	Bridgewater Investment Management, Inc. 4450 Excelsior Boulevard, Suite 100 St. Louis Park, MN 55416 Attn: Nicholas Place, Senior Vice President
With a copy to:	Messerli & Kramer P.A. 100 South Fifth Street, Suite 1400 Minneapolis, MN 55402 Attn: Michelle Jester

Section 7.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Borrower and their respective successors and assigns.

Section 7.3 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.4 Amendments, Changes and Modifications. Except as otherwise provided in this Agreement or in the Resolution, subsequent to the initial issuance of the Note and before the Note is satisfied and discharged in accordance with their respective terms, this Agreement may not be effectively amended, changed, modified, altered, or terminated without the written consent of the Lender.

Section 7.5 Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.6 Limitation of Issuer's Liability. It is understood and agreed by the Borrower and the Lender that no covenant of the Issuer herein shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers. It is further understood and agreed by the Borrower and the Lender that the Issuer shall incur no pecuniary liability hereunder, and shall not be liable for any expenses related hereto, including administrative expenses and the reasonable fees and disbursements of the Issuer's attorney, Bond Counsel, and fiscal consultant retained in connection therewith, all of which expenses the Borrower agrees to pay.

Section 7.7 Issuer's Attorneys Fees and Costs. If, notwithstanding the provisions of Section 7.6 hereof, the Issuer incurs any expense, or suffers any losses, claims, or damages, or incurs any liabilities in connection with the transaction contemplated by this Agreement, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any reasonable legal or other expenses incurred by the Issuer in relation thereto; provided, however, that the Borrower shall not be responsible for such losses arising from the willful misconduct or gross negligence of the Issuer. The Borrower shall also reimburse the Issuer for all other costs and expenses, including without limitation reasonable attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution, and delivery of the Related Documents and the documents and instruments related hereto or thereto; (ii) any amendments or modifications hereto or to the Note and the Related Documents and any document, instrument, or agreement related hereto or thereto, and the discussion, negotiation, preparation, approval, execution, and delivery of any and all documents necessary or desirable to effect such amendments or modifications; and (iii) the enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or under the Note and the Related Documents or any document, instrument, or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto. **[Further, the Borrower's source of payment of any indemnification costs or attorneys fees found under this Section 7.7 and in the Loan Agreement, for so long as HUD is the insurer or holder of a loan encumbering the Project will be limited to available liability insurance proceeds, collateral pledged under the Security Documents securing the Loan, from the Guaranty and/or Surplus Cash, as such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Borrower and HUD.]**

Section 7.8 Release. The Borrower hereby acknowledges and agrees that the Issuer shall not be liable to the Borrower, and hereby releases and discharges the Issuer from any liability, for any and all

losses, costs, expenses (including reasonable attorneys' fees), damages, judgments, claims, and causes of action paid, incurred, or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Lender with respect to this Agreement or the documents and transactions related hereto or contemplated hereby, including, without limitation, the exercise by the Lender of any of its rights or remedies pursuant to Article 6, the Note, and the Related Documents or any collateral security documents.

Section 7.9 Audit Expenses. The Company agrees to pay any costs incurred by the Issuer as a result of the Issuer's compliance with an audit, random or otherwise, by the Internal Revenue Service or the Minnesota Department of Revenue with respect to the Note, the Borrower, or the Project.

Section 7.10 Assignment by Issuer and Survivorship of Obligations. The Issuer may assign its rights under this Agreement and any related documents to the Lender to secure payment of the principal of and interest and premium, if any, on the Note, but any such assignment shall not operate to limit or otherwise affect the following provisions hereof to the extent that they run to the Issuer from the Borrower to which extent they shall survive any such assignment: Section 3.4, Section 3.6, Section 4.2, Section 4.3, Section 4.10, Section 6.5, Section 7.6, Section 7.7, Section 7.8 and Section 7.9.

Upon any such assignment, the provisions immediately above running to the Issuer from the Borrower for the Issuer's benefit shall run jointly and severally to the Issuer and the Lender (if appropriate), provided that the Issuer shall have the right to enforce any retained rights without the approval of the Lender but only if the Lender is not enforcing such rights in a manner to protect the Issuer or is otherwise taking action with respect thereto that brings adverse consequences to the Issuer. The obligations of the Borrower running to the Issuer for the purpose of preserving the tax-exempt status of the Note or otherwise for the Issuer's benefit under the foregoing Sections shall survive repayment of the Note and interest thereon.

Section 7.11 Required Approvals. Consents and approvals required by this Agreement to be obtained from the Borrower or the Issuer shall be in writing and shall not be unreasonably withheld or delayed.

Section 7.12 Nature of Borrower's Obligations. The Borrower's obligations under the Agreement, the Note, and the Related Documents are non-recourse to the Borrower at all times the Project is subject to a loan held or insured by HUD. Except during any period in which HUD is the holder or insurer of a loan encumbering the Project, the Borrower's obligations under this Agreement, the Note, and the Related Documents shall be fully recourse to the Borrower during the term of the Note.

Section 7.13 HUD Required Provisions. In addition, the rights and obligations of the parties under this Loan Agreement and all other documents evidencing, implementing, or securing this Loan Agreement and the Note (collectively, the "Subordinate Bond Documents") are and shall be subordinated in all respects to the rights and obligations of the parties to and under the **[FHA Loan Documents] [not defined]**. In the event HUD acquires title to the Project by foreclosure or deed in lieu of foreclosure, the Subordinate Bond Documents automatically terminate and the Borrower shall be released of all its obligations with respect to the Loan Agreement. Notwithstanding the foregoing, nothing in this Section 7.13 shall affect, limit, or impair the ability of the Lender to seek a monetary judgment, pursue other remedies against the Guarantor and shall be allowed to name the Borrower to any such suit against the Guarantor for the sole purpose of proving the Borrower's default under the Related Documents and the amounts due and owing thereunder by the Guarantor.

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

**CITY OF FALCON HEIGHTS, MINNESOTA**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Administrator

Execution page of the Borrower to the Loan Agreement, dated as of the date first above written.

BUHL GTA, LP, a Minnesota limited  
partnership

By: Buhl GTA GP, LLC, a Minnesota limited  
liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC, a  
Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC, a Minnesota limited  
liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic  
Its: Chief Manager

**EXHIBIT A**

**Legal Description**

The real property located in the City of Falcon Heights, Minnesota, County of Ramsey, State of Minnesota, legally described as:

**\$26,974,188**  
**City of Falcon Heights, Minnesota**  
**Multifamily Housing Revenue Refunding Note**  
**(Amber Union Project)**  
**Series 2021**

**ASSIGNMENT OF LOAN AGREEMENT**

This Assignment of Loan Agreement, dated as \_\_\_\_\_, 2021 (the “Assignment”), is made and entered into between the City of Falcon Heights, Minnesota, a municipal corporation and a political subdivision of the State of Minnesota (the “Issuer”), and Bridgewater Investment Management, Inc., a Minnesota corporation (the “Lender”).

**RECITALS**

WHEREAS, Buhl GTA, LP, a Minnesota limited liability limited partnership (the “Borrower”) and the Issuer have entered into a Loan Agreement, dated as of the date hereof (the “Loan Agreement”), pursuant to which the Issuer will lend to the Borrower the proceeds derived from the sale to the Lender of its Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021 (the “Series 2021 Note” or the “Note”), issued by the Issuer in the original aggregate principal amount of \$26,974,188; and

WHEREAS, the Note is to be payable from and secured by the loan repayments (the “Loan Repayments”) to be made by the Borrower under the Loan Agreement; and the Lender, as a condition to the purchase of the Note, has required the execution of this Assignment;

NOW THEREFORE, as an inducement to the Lender to purchase the Note, and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In order to secure the due and punctual payment of the Note and all other sums due the Lender under the Loan Agreement, the Issuer does hereby assign to the Lender all of the Issuer’s right, title, and interest in and to the Loan Agreement, including the Loan Repayments payable by the Borrower thereunder, subject to the Issuer’s rights under the provisions of Section 7.10 thereof.

2. The Issuer hereby represents and warrants to the Lender that the Issuer’s right, title, and interest in the Loan Agreement is free and clear of any lien, security interest, or other encumbrance other than that arising under this Assignment.

3. The Issuer hereby authorizes the Lender to exercise, whether or not a default exists under the Note or an Event of Default has occurred under the Loan Agreement, either in the Issuer’s name or the Lender’s name, any and all rights or remedies available to the Issuer under the Loan Agreement. The Issuer agrees, on request of the Lender, to execute and deliver to the Lender such other documents or instruments as shall be deemed necessary or appropriate by the Lender at any time to confirm or perfect the security interest hereby granted. The Issuer hereby appoints the Lender its attorney-in-fact to execute on behalf of the Issuer, and in its name, any and all such assignments, financing statements, or other documents or instruments which the Lender may deem necessary or appropriate to perfect, protect, or enforce the security interest hereby granted.



4. The Issuer will not:

(a) exercise or attempt to exercise any remedies under the Loan Agreement, except as permitted by Sections 6.2 and 7.7 of the Loan Agreement, or terminate, modify or accept a surrender of the same, or by affirmative act, consent to the creation or existence of any security interest or other lien in the Loan Agreement to secure payment of any other indebtedness; or

(b) receive or collect or permit the receipt or collection of any payments, receipts, rentals, profits, or other money under the Loan Agreement (except as permitted under Section 7.10 thereof) or assign, transfer, or hypothecate (other than to the Lender hereunder) any of the same then due or to accrue in the future.

5. The Issuer expressly covenants and agrees that the Lender shall be entitled to receive all Loan repayments and other payments under the Loan Agreement (except any payments due the Issuer under Section 7.10 thereof), and hereby authorizes and directs the Borrower to make such Loan repayments and other payments directly to the Lender. The Lender covenants and agrees that all payments received by the Lender pursuant to the Loan Agreement shall be applied as provided in the Loan Agreement, the Note and the Loan Documents (hereafter defined).

6. The Lender agrees to advance the purchase price of the Note directly to the Borrower as provided in the Note, the Loan Agreement, and the other agreements between the Borrower and the Lender entered into in connection with the issuance and delivery of the Note (the "Loan Documents"). In accordance with Section 7.10 of the Loan Agreement, the Lender hereby assumes the Issuer's and Lender's obligations to the Borrower thereunder.

7. If an Event of Default (as defined in the Loan Agreement) shall occur and be continuing after the expiration of any cure rights under the terms of the Loan Agreement, the Lender may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, in addition to any other remedy at law or in equity or specified in the Loan Agreement, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Lender may, without prior notice of any kind, declare the principal of and interest accrued on the Note immediately due and payable.

(b) The Lender may exercise any rights and remedies and options of a secured party under the Uniform Commercial Code as adopted in the State of Minnesota and any and all rights available to it under the Loan Agreement, or the other Loan Documents.

8. Whenever any of the parties hereto is 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 Assignment contained by or on behalf of the Issuer or the Lender shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

9. The unenforceability or invalidity of any provision or provisions of this Assignment shall not render any other provision or provisions herein contained unenforceable or invalid.

10. This Assignment shall in all respects be construed in accordance with and governed by the laws of the State of Minnesota. This Assignment may not be amended or modified except in writing signed by the Issuer and the Lender.

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

12. The terms used in this Assignment which are defined in the Loan Agreement shall have the meanings specified therein, unless the context of this Assignment otherwise requires, or unless such terms are otherwise defined herein.

13. No obligation of the Issuer hereunder shall constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers, but shall be payable solely out of the proceeds and the revenues derived under the Loan Agreement.

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

IN WITNESS WHEREOF, the Issuer and the Lender have caused this Assignment to be duly executed as of the date first above written.

**CITY OF FALCON HEIGHTS, MINNESOTA**

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Administrator

Signature page to Assignment of Loan Agreement

Execution page of the Lender to the Assignment of Loan Agreement.

**BRIDGEWATER INVESTMENT MANAGEMENT,  
INC.**

By: \_\_\_\_\_  
Nicholas Place  
Senior Vice President

Signature page to Assignment of Loan Agreement

AMENDED AND RESTATED  
REGULATORY AGREEMENT

between

CITY OF FALCON HEIGHTS, MINNESOTA  
as Issuer

BRIDGEWATER INVESTMENT MANAGEMENT, INC.  
as Purchaser

and

BUHL GTA, LP,  
as Borrower

Dated \_\_\_\_\_, 2021

This instrument drafted by:  
Taft Stettinius & Hollister LLP (CJC)  
80 South 8<sup>th</sup> Street, Suite 2200  
Minneapolis, Minnesota 55402

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**AMENDED AND RESTATED  
REGULATORY AGREEMENT**

THIS AMENDED AND RESTATED REGULATORY AGREEMENT, dated \_\_\_\_\_, 2021 (this “Regulatory Agreement”), is made and entered into between the CITY OF FALCON HEIGHTS, MINNESOTA, a municipal corporation and political subdivision of the State of Minnesota (the “Issuer”), BRIDGEWATER INVESTMENT MANAGEMENT, INC., a Minnesota corporation (the “Purchaser”), and BUHL GTA, LP, a Minnesota limited partnership (the “Borrower”).

**RECITALS**

The Issuer is authorized to issue bonds or other obligations to provide financing for multifamily housing developments in accordance with the terms of Minnesota Statutes, Chapter 462C, as amended.

For the purpose of financing the acquisition and renovation of an existing historic office building into an approximately 125-unit multifamily rental housing development and functionally related facilities to be located at 1667 Snelling Avenue in the City of Falcon Heights, Minnesota (the “Project”); on the real property described on EXHIBIT A attached hereto (the “Land”), funding one or more reserve funds to secure the timely payment of the Prior Note and the Note, if necessary; paying interest on the Prior Note and the Note during the rehabilitation of the Project, if necessary; and paying the costs of issuing the Prior Note and the Note, the Issuer has previously issued its Multifamily Housing Revenue Note (Amber Union Apartments Project), Series 2019 (the “Prior Note”), in the original aggregate principal amount of \$3,622,377, in accordance with the terms of Resolution No. 19–38, adopted by the City Council of the Issuer on November 13, 2019 and will issue its Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021 (the “Note”), in the original aggregate principal amount of \$26,974,188, in accordance with the terms of Resolution No. \_\_\_\_\_, adopted by the City Council of the Issuer on May 12, 2021.

The Issuer will loan the proceeds derived from the sale of the Note to the Borrower pursuant to the terms of a Loan Agreement, dated the date hereof, between the Issuer and the Borrower, to finance and refinance the Project.

For good and valuable consideration, the Borrower, the Purchaser, and the Issuer have determined to amend and restate the Regulatory Agreement dated as of November 26, 2019 with respect to the Prior Note, which has been assigned to the Borrower by Bridgewater Bank as assignee, in order to assure compliance with certain requirements of the Code (hereinafter defined) and of the Act (hereinafter defined) applicable to the Project.

NOW, THEREFORE, the Borrower, the Purchaser, and the Issuer do hereby impose upon the Project the following covenants, restrictions, charges, and easements, which shall run with the land and shall be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, owner, or lessee of

any portion of the Project and any other person or entity having any right, title, or interest therein, for the length of time that this Regulatory Agreement shall be in full force and effect:

**Section 1. Definitions.** Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below for the purposes hereof. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Loan Agreement.

“*Act*” means Minnesota Statutes, Chapters 462A, 462C and 474A, as amended.

“*Adjusted Income*” means the adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one Dwelling Unit), as calculated in the manner prescribed under Section 142(d)(2)(B) of the Code.

“*Bond Counsel*” means Taft Stettinius & Hollister LLP, or any other attorney at law or firm of attorneys, of nationally-recognized standing in matters pertaining to the federal tax exemption of interest on bonds and other obligations issued by states and political subdivisions thereof, duly admitted to practice law before the highest court of any state of the United States of America.

“*Borrower*” means Buhl GTA, LP, a Minnesota limited partnership, its successors and assigns, to the extent permitted by the Loan Agreement.

“*Certificate of Continuing Program Compliance*” means the document substantially in the form of EXHIBIT C hereto.

“*Code*” means the Internal Revenue Code of 1986, as amended, and all applicable regulations (whether proposed, temporary or final) under the Code and the statutory predecessor of the Code, and any official rulings and judicial determinations under the foregoing applicable to the Note.

“*County*” means Ramsey County in the State.

“*Dwelling Units*” means the units of multifamily residential rental housing comprising the Project.

“*Event of Default*” has the meaning specified in Section 13 hereof.

“*Functionally Related and Subordinate*” shall mean and include facilities for use by tenants, for example, laundry facilities, parking areas, and recreational facilities, provided that the same is of a character and size commensurate with the character and size of the Project.

“*Housing Act*” means the United States Housing Act of 1937, as amended, codified as 42 U.S.C. Sections 1401 et seq.

“*Issuer*” means the City of Falcon Heights, Minnesota, a municipal corporation and political subdivision of the State.



“*Loan*” means the loan of the proceeds of the Note provided by the Issuer to the Borrower pursuant to the Loan Agreement to provide financing for the Project.

“*Loan Agreement*” means the Loan Agreement, dated as of the date hereof, between the Issuer and the Borrower, as it may be amended and supplemented from time to time.

“*Low Income Tenants*” means persons or families with Adjusted Income which does not exceed [50%] of the Median Income for the Area adjusted for household size. In no event will the occupants of a unit be considered to be Low Income Tenants if all of such occupants are students (as defined in Section 152(f)(2) of the Code), unless the unit is occupied:

(i) by an individual who is (A) a student and receiving assistance under Title IV of the Social Security Act, (B) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under Part B or Part E of Title IV of the Social Security Act, or (C) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, State, or local laws; or

(ii) entirely by full-time students if such students are (A) single parents and their children and such parents are not dependents (as defined in Section 152 of the Code, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as defined in Section 152 of the Code, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual other than a parent of such children, or (B) married and entitled to file a joint return.

“*Low Income Units*” means the Dwelling Units in the Project designated for occupancy by Low Income Tenants pursuant to Section 4(a) of this Regulatory Agreement.

“*Median Income for the Area*” means the median yearly income for households of an applicable size in the applicable Primary Metropolitan Statistical Area as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the Housing Act, or, if such figures are no longer available, the method of calculation is substantially altered, or the programs under Section 8(f) are terminated, the Issuer shall provide the Borrower with another income determination that is reasonably similar to the method used by the Secretary prior to such termination.

“*Note*” means the Issuer’s Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021, issued in the original aggregate principal amount of \$26,974,188.

“*Pledge Agreement*” means the Pledge Agreement, dated as of the date hereof, between the Issuer and the Purchaser, as it may be amended and supplemented from time to time.

“*Prior Note*” means the Issuer’s Multifamily Housing Revenue Note (Amber Union Apartments Project), Series 2019, issued in the original aggregate principal amount of \$3,622,377.

“*Project*” has the meaning assigned to such term in the recitals to this Regulatory Agreement.

“*Purchaser*” means Bridgewater Investment Management, Inc., a Minnesota corporation, or any successor or assign.

“*Qualified Project Period*” means the period beginning on the later of the date of issuance of the Note and the first day on which 10% of the Dwelling Units in the Project are occupied and ending on the latest of:

(i) the date which is 15 years after the date on which 50% of the Dwelling Units in the Project are occupied;

(ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or

(iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

“*Regulatory Agreement*” means this Regulatory Agreement, together with any amendments or supplements hereto.

“*Resolution*” means Resolution No. \_\_\_\_\_, adopted by the City Council of the Issuer on May 12, 2021, authorizing the issuance of the Note.

“*Section 474A Penalty*” means the penalty described in Minnesota Statutes, Section 474A.047, subdivision 3, as applied to the Project.

“*State*” means the State of Minnesota.

“*Treasury Regulations*” means the regulations promulgated or proposed by the Department of the Treasury pursuant to the Code from time to time or pursuant to any predecessor statute to the Code.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate, and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all of the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

**Section 2. Representations by the Borrower.** The Borrower covenants, represents, and warrants that:

(a) The Borrower is a limited partnership organized and existing under the laws of the State. The Borrower is in good standing in the State and has duly authorized, by proper action, the execution and delivery of this Regulatory Agreement. The Borrower is duly

authorized by the laws of the State to transact business in the State and to perform all of its duties hereunder.

(b) Neither the execution and delivery of this Regulatory Agreement or any other document in connection with the financing of the Project, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the terms and conditions hereof and thereof conflicts with or results in a breach of any of the terms, conditions, or provisions of any agreement or instrument to which the Borrower is now a party or by which it is bound or constitutes a default (with due notice or the passage of time or both) under any of the foregoing or results in the creation or imposition of any prohibited lien, charge, or encumbrance whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement to which the Borrower is now a party or by which it is bound.

(c) The execution, delivery, and performance of this Regulatory Agreement and all other documents to be delivered by the Borrower in connection with the consummation of the transactions contemplated hereby will not conflict with, or constitute a breach of or default under, any indenture, mortgage, deed of trust, lease, commitment, agreement, or other instrument or obligation to which the Borrower is a party or by which the Borrower or any of its property is bound, or under any law, rule, regulation, judgment, order, or decree to which the Borrower is subject or by which the Borrower or any of its property is bound.

(d) To the best of the Borrower's knowledge, there is no action, suit, proceeding, inquiry, or investigation by or before any governmental agency, public board, or body pending or threatened against the Borrower (nor to the best of its knowledge is there any basis therefor), which:

(i) affects or seeks to enjoin, prohibit, or restrain the issuance, sale, or delivery of the Note or the use of the proceeds of the Note to refund the Prior Note and finance the acquisition, rehabilitation, and equipping of the Project or the execution and delivery of this Regulatory Agreement,

(ii) affects or questions the validity or enforceability of the Note or this Regulatory Agreement,

(iii) questions the tax exempt status of the Note, or

(iv) questions the power or authority of the Borrower to own, acquire, construct, equip, or operate the Project or to execute, deliver, or perform the Borrower's obligations under this Regulatory Agreement.

(e) The Project will be located wholly within the boundaries of the City of Falcon Heights, Minnesota.

(f) As of the date on which the Note is executed and delivered to the Purchaser, the Borrower will have title to the Land sufficient to carry out the purposes of this Regulatory Agreement, and the Borrower will not transfer its interest in the Land, except as otherwise permitted by this Regulatory Agreement.

(g) The Project consists and will consist of those facilities described herein, which generally are described as a residential apartment building and related facilities situated on the real property described in EXHIBIT A hereto. The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exemption from federal income taxation of the interest on the Note. The Borrower will utilize and operate the Project as a multifamily rental housing project during the term of the Note in accordance with all applicable federal, State, and local laws, rules, and regulations applicable to the Project.

(h) The Borrower has obtained, or will obtain on or before the date required therefor, all necessary certificates, approvals, permits, and authorizations with respect to the operation of the Project.

(i) The Borrower does not currently own and does not intend to own the Note. The Borrower acknowledges and understands that if the Borrower or a “substantial user” of the Project financed with the proceeds of the Note or a “related person,” as those terms are employed in Section 147(a) of the Code, owns the Note, or any portion thereof, interest on the Note during such period of ownership will not be excludable from gross income for federal income tax purposes.

(j) The Borrower does not own any buildings or structures which are proximate to the Project other than those buildings or structures which comprise the Project, which are being financed pursuant to a common plan under which the Project is also being financed.

(k) The statements made in the various certificates delivered by the Borrower to the Issuer or the Purchaser on the date of issuance of the Note are true and correct.

**Section 3. Qualified Residential Rental Project.** The Borrower shall acquire, construct, equip, own, manage, and operate the Project as a “qualified residential rental project,” as such phrase is utilized in Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. To that end, the Borrower hereby represents, warrants, and covenants as follows:

(a) that a qualified residential rental project will be acquired and constructed on the property described in EXHIBIT A hereto, and the Borrower shall own, manage and operate the Project as a qualified residential rental project containing Dwelling Units and facilities Functionally Related and Subordinate to such Dwelling Units, in accordance with Section 142(a)(7) and Section 142(d) of the Code and all applicable Treasury Regulations promulgated thereunder, as the same may be amended from time to time;

(b) that all of the Dwelling Units of the Project will be similarly constructed and each Dwelling Unit in the Project will contain complete facilities for living, sleeping, eating, cooking, and sanitation for a single person or a family;

(c) that:

(i) none of the Dwelling Units in the Project shall at any time in the future be utilized on a transient basis;

- (ii) that none of the Dwelling Units in the Project shall at any time in the future be leased or rented for a period of less than 30 days; and
- (iii) that neither the Project nor any portion thereof shall be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park or trailer court for use on a transient basis, or by a cooperative housing corporation (as defined in Section 216(b)(1) of the Code);
- (d) that once available for occupancy:
  - (i) each Dwelling Unit in the Project must be rented or available for rental on a continuous basis to members of the general public during the Qualified Project Period; and
  - (ii) the Borrower shall not give preference in renting Dwelling Units in the Project to any particular class or group of persons, other than Low Income Tenants as provided herein or as otherwise permitted by law;
- (e) that the Dwelling Units in the Project shall be leased and rented to members of the general public in compliance with this Regulatory Agreement, except for any Dwelling Unit for a resident manager or maintenance personnel;
- (f) that the Project consists of one or more discrete edifices and other man made construction, each consisting of an independent foundation, outer walls and roof, all of which will be (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more parcels of land which are contiguous except for being separated only by a road, street, stream, or a similar property and (iii) financed by the Loan or otherwise pursuant to a common plan of financing, and which consists entirely of:
  - (i) units which are similar in quality and type of construction and amenities; and
  - (ii) property Functionally Related and Subordinate in purpose and size to the Project, e.g., parking areas, laundries, swimming pools, tennis courts, and other recreational facilities (none of which may be unavailable to any person because such person is a Low Income Tenant) and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment, or units for residential managers or maintenance personnel;
- (g) that no portion of the Project shall be used to provide any health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;
- (h) that the Project shall not include a Dwelling Unit in a building where all Dwelling Units in such building are not also included in the Project;
- (i) that the Borrower shall not convert the Project to condominium or cooperative ownership;

(j) that no Dwelling Unit in the Project shall be occupied by any partner of the Borrower (or any person related to a partner of the Borrower or to any related person to the Borrower within the meaning of Section 147(a)(2) of the Code) at any time unless such person resides in a Dwelling Unit in a building or structure which contains at least five Dwelling Units and unless the resident of such Dwelling Unit is a resident manager or other necessary employee (e.g., maintenance and security personnel);

(k) that the Note will not be “federally guaranteed,” as defined in Section 149(b) of the Code;

(l) that the Project shall at all times be used and operated as a “multifamily housing development,” as defined in the Act; and

(m) that the Borrower shall not discriminate on the basis of race, creed, color, sex, sexual preference, source of income (e.g., AFDC or SSI), physical disability, national origin, or marital status in the rental, lease, use, or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

**Section 4. Low Income Tenants.** Pursuant to the requirements of the Act and Section 142(d) of the Code, the Borrower hereby represents, warrants, and covenants as follows:

(a) Subject to Section 5. below, upon completion of the Project, at least [20]% of the units in the Project will be occupied or held for occupancy by Low Income Tenants. Throughout the Qualified Project Period, not less than [20]% of the completed units in the Project shall be continuously occupied or held for occupancy by Low Income Tenants. The Borrower will designate the Low Income Units and will make any revisions to such designations as necessary to comply with the applicable provisions of the Code and the Treasury Regulations. As set forth in paragraph (e) below, the Borrower shall advise the Issuer and the Purchaser by delivery of a certificate in writing of the status of the occupancy of the Project with respect to Low Income Tenants on an annual basis for the term of this Regulatory Agreement. An Annual Certification of a Residential Rental Project, Form 8703 (Rev. September 2013), or successor form, shall be prepared annually by the Borrower and filed with the United States Secretary of the Treasury pursuant to Section 142(d)(7) of the Code (currently with the Internal Revenue Service Center, Ogden, Utah 84201), with a copy to be filed by the Borrower with the Issuer and the Purchaser. The percentage of units is measured by number of units, and not square footage of units.

For purposes of satisfying the occupancy requirements set forth above, a unit occupied by a person or family who at the commencement of their occupancy qualified as a Low Income Tenant shall be treated as occupied by a Low Income Tenant until such time as any recertification of such tenant’s income in accordance with subsections (c) and (h) below demonstrates that such tenant’s income exceeds 140% of the income limitation applicable to Low Income Tenants or the tenant vacates the unit.

A unit occupied by a Low Income Tenant shall be deemed, upon the termination of such tenant’s occupancy, to be continuously occupied by a Low Income Tenant until reoccupied,

other than for a temporary period (not to exceed 60 days), at which time the character of the unit shall be redetermined.

(b) The Borrower will notify the Issuer on an annual basis of any vacancy of any Low Income Units.

(c) The Borrower will obtain, complete, and maintain on file income certifications from each Low Income Tenant, obtained immediately prior to the initial occupancy of such tenant in the Project, and thereafter re-obtain in any year in which a unit in the Project is occupied by a new resident whose income exceeds the applicable income limit, income certifications (based upon their then current income), from each Low Income Tenant, substantially in the form of the income certification set forth in EXHIBIT B hereto or another form approved by Bond Counsel (the "Income Certification") and will provide such additional information as may be required by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Treasury Regulations now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service applicable to the Note. Such Income Certification shall be obtained prior to initial occupancy. If requested by the Purchaser or Issuer, a copy of such Income Certification shall be filed with the Purchaser and the Issuer prior to occupancy by the tenant whenever possible but in no event more than one month after initial occupancy by the tenant. A copy of each re-certification of income shall be attached to each report filed with the Issuer and the Purchaser pursuant to Section 4(a) above. The Borrower shall make a good-faith effort to verify that the income reported by an applicant in an income certification is accurate by taking at least one of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) conduct a credit or similar search, (4) obtain an income verification form from the applicant's current employer, (5) obtain an income verification form from the Social Security Administration if the applicant receives assistance from such agency, or (6) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. If the Low Income Tenant is a Section 8 Certificate Holder, the Borrower shall retain a copy of the certificate or voucher for verification of income in lieu of an income verification.

The Borrower understands that failure to file the Annual Certification of a Residential Rental Project, Form 8703 (Rev. September 2013), or successor form, as required by Section 142(d)(7) of the Code at the times stated therein may subject it to the penalty described in Section 6652(j) of the Code.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit, upon reasonable prior notice, any duly authorized representative of the Issuer, the Purchaser, the Department of the Treasury, or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units. This section is not intended to create any additional duties to inspect records.

(e) The Borrower will prepare and submit to the Issuer and the Purchaser, on or before **[December]** 1 of each year during the Qualified Project Period, beginning the first

**[December]** 1 following commencement of the Qualified Project Period, a Continuing Program Compliance Certificate in the form of EXHIBIT C attached hereto and executed by the Borrower, and, if requested by the Purchaser or Issuer the Income Certifications described in Section 4(c) above.

(f) The Borrower, upon becoming aware of an Event of Default, will notify the Issuer and the Purchaser, in writing, of the occurrence of any such Event of Default hereunder or any event which, with the passage of time or service of notice, or both, would constitute an Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto. Such notice shall be given promptly and in no event longer than 10 Business Days after the Borrower receives notice or gains knowledge of the occurrence of any such event. The Borrower further agrees that it will give prompt written notice to the Purchaser if insurance proceeds or condemnation awards are received with respect to the Project and are not used to repair or replace the Project, which notice shall state the amount of such proceeds or award.

(i) Except as provided in (ii) below, the Borrower shall accept as tenants on the same basis as all other prospective tenants Low Income Tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Housing Act or its successor and shall not apply selection criteria to Section 8 certificate/voucher holders that are more burdensome than the criteria applied to all other prospective tenants.

(ii) The Borrower agrees to modify the leases for units in the Project as necessary to allow the rental of Low Income Units to Section 8 certificate/voucher holders.

(g) Each lease pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the income certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease.

(h) Throughout the Qualified Project Period, the Borrower shall re-certify each Low Income Tenant's income on or before the anniversary of the Low Income Tenant's tenancy, in any year in which a unit in the Project is occupied by a new resident whose income exceeds the applicable income limit, by obtaining a completed Income Certification. In the event the re-certification demonstrates that any such tenant's household income exceeds 140% of the applicable income limit, the Borrower shall hold the next available unit or units of comparable or smaller size in the Project available for rental by new Low Income Tenants.

The Borrower in its sole discretion may notify, in writing, each tenant who is no longer a Low Income Tenant of such fact, and that the rent of such tenant(s) is subject to increase 30 days after receipt of such notice. The Borrower shall be entitled to so increase any such tenant's rent only if Borrower complies with any law applicable thereto and only after the Borrower has rented the next available unit or units in the Project on a one-for-one basis to a Low Income Tenant, or holds units vacant and available for occupancy by Low Income Tenants.



The Borrower agrees to inform all prospective Low Income Tenants of the requirements for re-certification of income and of the provisions of the preceding paragraph.

**Section 5. Restrictions Imposed by Minnesota Statutes, Chapter 474A.** Because the Note is issued by the Issuer as a residential rental project bond, as defined in Minnesota Statutes, Chapter 474A, as amended (“Chapter 474A”), and has received an allocation of tax exempt bonding authority pursuant to applicable provisions of Chapter 474A, the restrictions imposed by Chapter 474A apply to the Project as described below.

(a) In addition to any other restrictions on rent or the income of tenants set forth in this Regulatory Agreement, during the Qualified Project Period, the Borrower shall restrict rents on at least 20% of the units in the Project (which may consist of the same units as meet the requirements of Section 4) to an amount not exceeding the area fair market rents or exception fair market rents, as applicable, for existing housing as established by the federal Department of Housing and Urban Development from time to time, which units shall be occupied, or held for occupancy, by Low Income Tenants. The rental rates of units in a residential rental project for which rental assistance payments are made are deemed to be within the rent limitations of this clause if the amount paid by the tenants is less than the fair market rents.

(b) The annual certifications required to be made by the Borrower hereunder shall conform to the requirements of Section 474A.047, subdivision 3, and the Issuer shall have the authority to impose upon the Borrower any and all penalties described in Section 474A.047, subdivision 3, from time to time, in addition to any remedies otherwise available under this Regulatory Agreement.

(c) The Borrower must satisfy the requirements of Section 474A.047, subdivision 1(a), during the Qualified Project Period. The Borrower must annually certify to the Issuer over the term of this Regulatory Agreement that the rental rates for the rent-restricted units are within the limitations under Section 474A.047, subdivision 1(a), of Chapter 474A. The Issuer may request individual certification of the income of residents of the income-restricted units. The Commissioner of Minnesota Management and Budget may request from the Issuer a copy of the annual certification prepared by the Borrower. The Commissioner of Minnesota Management and Budget may require the Issuer to request individual certification of all residents of the income-restricted units.

(d) Upon completion of the Project, (1) 100% of the residential units in the Project will be eligible for low income housing tax credits under Section 42 of the Code; and (2) all of the residential units of the Project: (x) will be reserved for tenants whose income, on average, is 50% of area median income or less; (y) will be rent-restricted in accordance with Section 42(g)(2) of the Code; and (z) will be subject to rent and income restrictions for a period of not less than 30 years. For purposes of this paragraph, “on average” means the average of the applicable income limitation level for the Project determined on a unit-by-unit basis.

**Section 6. Covenants Run with the Land.** The Borrower hereby declares its express intent that the covenants, restrictions, charges, and easements set forth herein shall be deemed covenants running with the Land and shall, except as otherwise provided in this Regulatory Agreement, pass to and be binding upon the Borrower’s successors in title including

any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein. Except as otherwise provided in this Regulatory Agreement, each and every contract, deed, or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants, restrictions, charges, and easements contained herein; provided, however, that any such contract, deed, or other instrument shall conclusively be held to have been executed, delivered, and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed, or other instrument.

**Section 7. Indemnification.** The Borrower hereby covenants and agrees that it shall indemnify and hold harmless the Issuer and its officers, agents, and employees (the “Indemnified Parties”) and the Purchaser and its officers, agents, members, directors, officials, and employees as provided in the Loan Agreement. All provisions of the Loan Agreement relating to indemnification are incorporated by reference herein and are considered provisions of this Regulatory Agreement, as if expressly set out herein.

**Section 8. Consideration.** The Issuer has issued the Note in part to provide funds to make the Loan to finance the acquisition, construction, and equipping of the Project all for the purpose, among others, of inducing the Borrower to acquire, construct, equip, and operate the Project. In consideration of the issuance of the Note by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

**Section 9. Reliance.** The Issuer and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Note and in the exemption from federal income taxation of the interest on the Note. In performing their duties and obligations hereunder, the Issuer and the Purchaser may rely upon statements and certificates of the Borrower and the tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Issuer and the Purchaser may consult with counsel, and the written opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Issuer or the Purchaser hereunder in good faith and in conformity with such written opinion. A copy of any such opinion shall be furnished by the Issuer or the Purchaser to the Borrower upon written request. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Purchaser shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any notice or certificate delivered to the Purchaser by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it knows, or in the exercise of reasonable care should have known, that the notice or certificate is erroneous or misleading.

The Purchaser shall be under no duty to make any investigation or inquiry as to any statements or other matters contained or referred to in any documents or any instruments delivered to it in accordance with this Regulatory Agreement, but it may receive and accept the same as conclusive evidence of the truth and accuracy of such statements.

**Section 10. Sale or Transfer of the Project.** The Borrower hereby covenants and agrees not to sell, transfer, or otherwise dispose of the Project, or any portion thereof, except as permitted under the terms of the Loan Agreement. Any attempted sale, transfer, or disposition which would cause or result in the violation of any of these covenants, provisions, reservations, restrictions, charges, or easements shall be null and void ab initio and of no force and effect. Nothing herein shall prohibit the transfer, sale, or assignment of the interests in the Borrower or any direct or indirect ownership interests in the Borrower's partners, except as may be prohibited under the Loan Agreement.

**Section 11. Term.** This Regulatory Agreement and the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect for a term and period equal to the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Note and termination of the Loan Agreement and the Loan if the Qualified Project Period has not expired at the time of such retirement and expiration. Notwithstanding anything in this Regulatory Agreement to the contrary:

(a) The Project may be transferred pursuant to a foreclosure, exercise of power of sale, or deed in lieu of foreclosure, or comparable proceedings under a mortgage or similar instrument without the consent of or fee of any kind payable to the Issuer or compliance with the provisions of this Regulatory Agreement. In connection with any such foreclosure, deed in lieu of foreclosure, or other proceedings, this Regulatory Agreement may, at the option of the Purchaser, be terminated upon completion of the foreclosure and expiration of the applicable redemption period, or recording of a deed in lieu of foreclosure.

(b) The requirements of this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire or other casualty, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law, or an action of a federal agency after the date of this Regulatory Agreement, which prevents the Issuer and the Purchaser from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Note is retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof (this shall be deemed met if the Note has been previously retired); provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure, or the delivery of a deed in lieu of foreclosure, or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Treasury Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure, or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes.

(c) This Regulatory Agreement, or any of the provisions or sections hereof, may be terminated upon agreement by the Issuer and the Borrower, and if the Note is then outstanding, the Purchaser, upon receipt of an opinion of Bond Counsel to the effect that such termination will not cause interest on the Note to become included in gross income for federal income tax

purposes or cause interest on the Note to become included in the net taxable income of individuals, trusts, and estates for State income tax purposes.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver, and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

**Section 12. Burden and Benefit.** The Issuer and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Issuer and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the Land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the Note was issued. Notwithstanding the foregoing, the Low Income Tenants are not intended to be third party beneficiaries of this Regulatory Agreement and shall have no rights to enforce any provision herein.

**Section 13. Enforcement.** If the Borrower defaults in the performance or observance of any covenant, agreement, or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after written notice thereof shall have been given by the Issuer or the Purchaser to the Borrower, then the Issuer or the Purchaser, acting on its own behalf or on behalf of the Issuer, may declare an "Event of Default" to have occurred hereunder and, at its option, may take any one or more of the following steps:

- (a) by mandamus or other suit, action, or proceeding at law or in equity require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Purchaser hereunder;
- (b) have access to and inspect, examine, and make copies of all the books and records of the Borrower pertaining to the Project;
- (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants, and agreements of the Borrower hereunder; or
- (d) with the Purchaser's consent, declare a default under the Loan, accelerate the indebtedness evidenced by the Loan, and proceed to redeem the Note in accordance with its terms.

Notwithstanding anything to the contrary contained herein, the Issuer and the Purchaser hereby agree that any cure of any default made or tendered by one or more of the Borrower's partners or by the Purchaser shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

The Purchaser shall have the right (but not the obligation), in accordance with this Section 13, without the consent or approval of the Issuer, to exercise any or all of the rights or remedies of the Issuer hereunder, provided that prior to taking any such act the Purchaser shall give the Issuer written notice of its intended action. All fees, costs, and expenses of the Purchaser or the Issuer incurred in taking any action pursuant to this Section 13 shall be the sole responsibility of the Borrower and shall be paid to the Purchaser or the Issuer, as the case may be, on demand.

After the Note has been discharged, the Issuer may act on its own behalf to declare an “Event of Default” to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Purchaser.

**Section 14. The Purchaser and the Issuer.** The Purchaser, in its discretion, may act as the agent of and on behalf of the Issuer where requested by the Issuer to do so. The Purchaser is entering into this Regulatory Agreement in its capacity as the purchaser of the Note. The Issuer may, at all times, assume the Borrower’s compliance with this Regulatory Agreement unless otherwise notified in writing by the Purchaser (but the Purchaser shall have no obligation to so notify the Issuer), or unless the Issuer has actual knowledge of noncompliance. The Purchaser can rely on the accuracy of any certificates, instruments, opinions, or reports delivered to it by the Borrower. If the Note is discharged and terminated prior to the expiration of the Qualified Project Period: (i) all obligations, rights, and duties of the Purchaser under this Regulatory Agreement will terminate and be of no further force and effect; (ii) all actions required by the Purchaser will instead be undertaken by the Issuer; and (iii) all notices to be delivered to the Purchaser will instead be delivered to the Issuer and all notices to be delivered by the Purchaser will instead be delivered by the Issuer.

**Section 15. Amendment.** The provisions hereof shall not be amended or revised prior to the stated term hereof except by an instrument in writing duly executed by the Issuer, the Purchaser (so long as the Note is outstanding), and the Borrower and duly recorded in the same manner as this Regulatory Agreement. The Issuer’s and the Purchaser’s consent to any such amendment or revision (whether or not the Note shall then be outstanding) shall be given only upon receipt of an opinion of Bond Counsel addressed to the Issuer and Purchaser that such amendment or revision will not adversely affect the exemption from federal income taxation of interest on the Note. Neither the Issuer nor the Purchaser shall have a duty to prepare any such consent, amendment, or revision.

**Section 16. Right of Access to the Project and Records.** The Borrower agrees that during the term of this Regulatory Agreement, the Issuer, the Purchaser, and the duly authorized agents of either of them shall have the right at all reasonable times, and upon reasonable notice of at least 24 hours, to enter upon the site of the Project during normal business hours to examine and inspect the Project and to have access to the books and records of the Borrower with respect to the Project, a copy of which shall be maintained at the site of the Project.

**Section 17. No Conflict with Other Documents.** The Borrower warrants that it has not executed and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof.

**Section 18. Severability.** The invalidity of any clause, part, or provision of this Regulatory Agreement shall not affect the validity of the remaining portions thereof.

**Section 19. Notices.** All notices to be given pursuant to this Regulatory Agreement shall be in writing and shall be deemed given when sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods or when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing:

To the Issuer: City of Falcon Heights, Minnesota  
Falcon Heights City Hall  
2077 Larpenteur Avenue W  
Falcon Heights, MN 55113-5551  
Attn: City Administrator  
Facsimile: (651) 792-7610  
Email: [sack.thongvanh@falconheights.org](mailto:sack.thongvanh@falconheights.org)

To the Purchaser: Bridgewater Investment Management, Inc.  
4450 Excelsior Boulevard, Suite 100  
St. Louis Park, MN 55416  
Attention: Nicholas Place  
Facsimile: (952) 893-6869  
Email: [nick.place@bwbm.com](mailto:nick.place@bwbm.com)

With a copy to: Messerli & Kramer, P.A.  
1400 Fifth Street Towers  
100 South Fifth Street  
Minneapolis, MN 55402  
Attn: Michelle Jester, Esq.  
Facsimile: (612) 672-3777  
Email: [mjester@messerlikramer.com](mailto:mjester@messerlikramer.com)

To the Borrower: Buhl GTA, LP  
5100 Eden Avenue, Suite 317  
Edina, MN 55436  
Attn: Peter Deanovic  
Email: [pete@buhlinvestors.com](mailto:pete@buhlinvestors.com)

With a copy to: Winthrop & Weinstine, P.A.  
Capella Tower  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402-4629  
Attn: Kevin McLain  
Facsimile: (612) 604-6588  
Email: [kmclain@winthrop.com](mailto:kmclain@winthrop.com)

And a copy to: RBC Community Investments, LLC  
600 Superior Avenue, Suite 2300  
Cleveland, Ohio 44114  
Attn: President and General Counsel

And a copy to: Nixon Peabody LLP  
Exchange Place, 53 State Street  
Boston, MA 02109  
Attn: Roger W. Holmes

**Section 20. Governing Law.** This Regulatory Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Minnesota, without regard to its conflicts of laws principles, except as such laws may be preempted by any federal rules, regulations, and laws.

**Section 21. Payment of Fees.** Notwithstanding payment of the Loan, the termination of the Loan Agreement, and the defeasance or discharge of the Note, throughout the term of the Qualified Project Period, the Borrower shall continue to pay:

(a) to the Purchaser, its reasonable and customary fees and expenses for reviewing and, if necessary, enforcing compliance by the Borrower with the terms of this Regulatory Agreement;

(b) to the Issuer, reimbursement for all reasonable fees and expenses, including, but not limited to, financial advisory and legal fees and expenses necessary for the Issuer's reviewing and, if necessary, enforcing compliance by the Borrower with the terms of this Regulatory Agreement; and

(c) the fees and expenses of any entity or person designated by the Purchaser or Issuer to perform the review of the Borrower's compliance with this Regulatory Agreement; provided that such fees and expenses are not duplicative of any fees and expenses paid under (a) and (b) above.

**Section 22. Limited Liability.** Notwithstanding anything to the contrary in this Regulatory Agreement, it is understood and agreed by the Borrower and the Purchaser that no covenant, provision or agreement of the Issuer herein or in the Note or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Note, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to the Loan Agreement and the application of revenues therefrom and the proceeds of the Note. No failure of the Issuer to comply with any term, condition, covenant or agreement herein or therein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from the Loan Agreement or revenues therefrom or proceeds of the Note. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated

itself except with respect to the Loan Agreement and the application of revenues thereunder as therein provided. The Note constitutes a special, limited obligation of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to the Loan Agreement and the Related Documents, and do not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, the State of Minnesota or any political subdivision thereof or a charge against the Issuer's general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Purchaser that the Issuer shall incur no pecuniary or moral liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment for the Note.

**Section 23. Actions of Issuer.** The Issuer shall be entitled to rely conclusively on an opinion of counsel in the exercise or non-exercise of any of the rights or powers vested in the Issuer by virtue of this Regulatory Agreement or any other agreement or instrument executed in connection with the issuance of the Note; it being the intent of the parties hereto that the Issuer, and any and all present and future trustees, members, commissioners, officers, employees, attorneys, and agents of the Issuer shall not incur any financial or pecuniary liability for the exercise or non-exercise of any rights or powers vested in the Issuer by this Regulatory Agreement or any other instrument or agreement executed in connection with the issuance of the Note; or for the performance or nonperformance of any obligation under, or the failure to assert any right, power, or privilege under this Regulatory Agreement, the Pledge Agreement, the Note, the Loan Agreement, or any other instrument or agreement executed in connection with the issuance of the Note. If the Issuer's consent or approval is required under this Regulatory Agreement, or any other agreement or instrument executed in connection with the issuance of the Note, the Issuer shall be entitled to rely conclusively on an opinion of counsel and shall not be responsible for any loss or damage resulting from any action or inaction in reliance upon such opinion.

**Section 24. Counterparts.** This Regulatory Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Regulatory Agreement, and, in making proof of this Regulatory Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 25. Recording and Filing.** Prior to any advance of the proceeds of the Note under Section [3.03] of the Disbursing Agreement, the Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto to be recorded and filed in the real property records of the County, the State, and in such other places as the Issuer or the Purchaser may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

**Section 26. HUD Required Provisions.** This Regulatory Agreement is also subject to the provisions set forth in the rider attached as EXHIBIT D hereto.



**IN WITNESS WHEREOF**, the parties have caused this Regulatory Agreement to be signed by their respective duly authorized representatives as of the day and year first written above.

CITY OF FALCON HEIGHTS, MINNESOTA

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Administrator

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF RAMSEY     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Randy Gustafson and Sack Thongvanh, the Mayor and City Administrator, respectively, of the City of Falcon Heights, Minnesota, a municipal corporation and a political subdivision under the laws of the State of Minnesota, on behalf of said City.

\_\_\_\_\_  
Notary Public

Execution page of the Borrower to the Regulatory Agreement.

BUHL GTA, LP, a Minnesota limited partnership

By: Buhl GTA GP, LLC, a Minnesota limited liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC, a Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC, a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic  
Its: Chief Manager

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Peter Deanovic, the Chief Manager of Buhl Investors, LLC, a Minnesota limited liability company, the Manager of Buhl Value Fund I Manager, LLC, a Delaware limited liability company, the Manager of Buhl GTA GP, LLC, a Minnesota limited liability company and the General Partner of Buhl GTA, LP, a Minnesota limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public

Execution page of the Purchaser to the Regulatory Agreement.

BRIDGEWATER  
MANAGEMENT, INC.  
Purchaser

INVESTMENT

By \_\_\_\_\_  
Nicholas Place  
Its Senior Vice President

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Nicholas Place, the Senior Vice President of Bridgewater Investment Management, Inc., a Minnesota corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

### LEGAL DESCRIPTION OF LAND

**[Update?] [KMM: Yes, will include an appurtenant easement over a part of “Parcel 2”].  
Also working on parking rights with City on the East side, with documents TBD.]**

The Land described in this Regulatory Agreement is located in Ramsey County, Minnesota, and is legally described as follows:

**Parcel 3:**

That part of the West 133.00 feet of the Northeast quarter of the Northeast quarter of the Northeast quarter of Section 21, Township 29, Range 23, which lies South of the North 318.00 feet thereof and which lies North of the South 330.00 feet.

(Parcels 1, 2 and 3 are Torrens Property-Certificate of Title No. 590824)

**Parcel 4:**

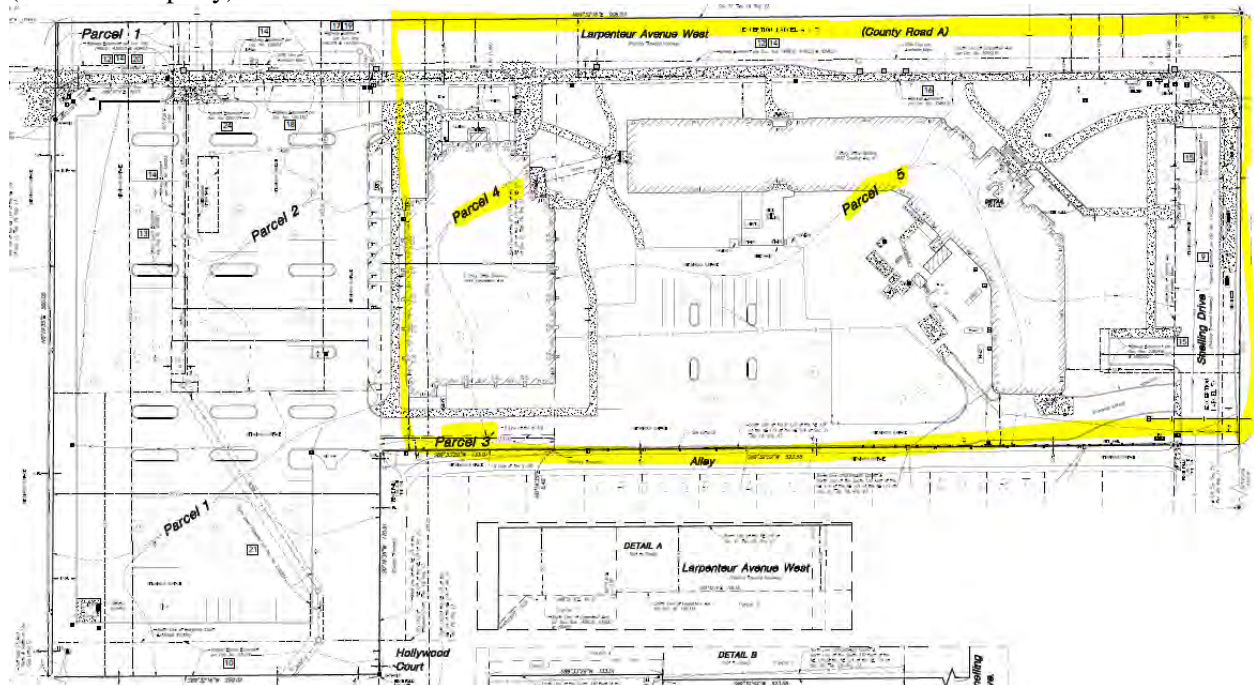
The Westerly 133 feet of the Northerly 318 feet excepting therefrom that part taken for Larpenteur Avenue, of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter, Section 21, Township 29, Range 23, Ramsey County, Minnesota.

(Abstract Property)

**Parcel 5:**

The North Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter, except the West 133 feet thereof, in Section 21, Township 29, Range 23, Ramsey County, Minnesota except that part taken for Snelling and Larpenteur Avenues.

(Abstract Property)



**EXHIBIT B-1  
FORM OF INITIAL INCOME CERTIFICATION**

<b>TENANT INCOME CERTIFICATION</b>  <input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other _____	Effective Date: _____ Move-in Date: _____ (MM/DD/YY): _____
---	---

**PART I. DEVELOPMENT DATA**

Property Name: Lexington Apartments  Address: _____, Lexington, Minnesota	County: Ramsey Unit Number: _____	BIN #: _____ # Bedrooms: _____
---	--------------------------------------	-----------------------------------

**PART II. HOUSEHOLD COMPOSITION**

HH Br #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						

**PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)**

HH Br #	(A) Employment or Wages	(B) Soc. Security / Pensions	(C) Public Assistance	(D) Other Income
<b>TOTAL</b>	\$	\$	\$	\$
Add totals from (A) through (D) above			<b>TOTAL INCOME (E):</b>	\$

**PART IV. INCOME FROM ASSETS**

HH Mbr#	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total		Passbook Rate		
if over \$5,000	\$ _____	x 2.00 %	=	(J) Imputed Income
				\$
Enter the greater of the total column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$
(L) Total Annual Household Income from all sources [Add (E) + (K)]				\$

**HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full-time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____	_____	_____	_____
Signature	(Date)	Signature	(Date)
_____	_____	_____	_____
Signature	(Date)	Signature	(Date)

**PART V. DETERMINATION OF INCOME ELIGIBILITY**

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1

\$

Household Meets Income Restriction at:

- 60%     50%  
 40%     30%  
 \_\_\_%

RECERTIFICATION ONLY:

Current Income Limit x 140%

\$ \_\_\_\_\_

Household income exceeds 140% at recertification:

- Yes     No

Current Income Limit per Family Size: \$ \_\_\_\_\_

Household Income at Move-in \$ \_\_\_\_\_

Household Size at Move-in: \_\_\_\_\_

**PART VI. RENT**

Tenant Paid Rent \$ \_\_\_\_\_

Rent Assistance: \$ \_\_\_\_\_

Utility Allowance \$ \_\_\_\_\_

Other non-optional charges: \$ \_\_\_\_\_

GROSS RENT FOR UNIT:

\$

Tenant paid rent plus Utility Allowance and other non-optional charges

Unit Meets Rent Restriction at:

- 60%     50%     40%     30%     \_\_\_%

Maximum Rent Limit for this unit: \$ \_\_\_\_\_

**PART VII. STUDENT STATUS**

ARE ALL OCCUPANTS FULL-TIME STUDENTS?

- yes     no

If yes, enter student explanation\*\* (also attach documentation)

Enter 1-4

Student explanation:

1. TANF assistance
2. Job training program
3. Single parent/dependent child
4. Married/joint return\*

**\*Exception for married/joint return is the only exception available for units necessary to qualify tax-exempt bonds.**

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification

- a. Tax Credit       b. HOME       c. Tax Exempt       d. AHDP       e.  \_\_\_\_\_  
 (Name of Program)

See Part V above.

<i>Income Status</i>	<i>Income Status</i>	<i>Income Status</i>	<i>Income Status</i>
<input type="checkbox"/> ≤ 50% AMGI	<input type="checkbox"/> 50% AMGI	<input type="checkbox"/> ≤ 50% AMGI	<input type="checkbox"/> _____
<input type="checkbox"/> ≤ 60% AMGI	<input type="checkbox"/> 60% AMGI	<input type="checkbox"/> ≤ 80% AMGI	<input type="checkbox"/> _____
<input type="checkbox"/> ≤ 80% AMGI	<input type="checkbox"/> 80% AMGI	<input type="checkbox"/> ≤ OI **	<input type="checkbox"/> ≤ OI **
<input type="checkbox"/> ≤ OI **	<input type="checkbox"/> OI **		

\*\* Upon recertification, household was determined over income (OI) according to eligibility requirements of the program(s) marked above.

**SIGNATURE OF OWNER / REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Regulatory Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
SIGNATURE OF OWNER / REPRESENTATIVE

\_\_\_\_\_  
DATE



**INSTRUCTIONS FOR COMPLETING  
TENANT INCOME CERTIFICATION**

*This form is to be completed by the owner or an authorized representative.*

**Part I – Development Data**

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- Move-in Date            Enter the date the tenant has or will take occupancy of the unit.
- Effective Date        Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
- Property Name        Enter the name of the development.
- County                Enter the county (or equivalent) in which the building is located.
- BIN #                 Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address                Enter the unit number.
- Unit Number         Enter the unit number.
- # Bedrooms            Enter the number of bedrooms in the unit.

**Part II – Household Composition**

List all occupants of the unit. State each household member’s relationship to the head of the household by using one of the following coded definitions:

- |   |                   |   |                     |
|---|-------------------|---|---------------------|
| H | Head of household | S | Spouse              |
| A | Adult co-tenant   | O | Other family member |
| C | Child             | F | Foster child        |
| L | Live-in caretaker | N | None of the above   |

Enter the date of birth, student status, and Social Security number or alien registration number for each occupant.

*If there are more than seven occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.*

### Part III – Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the 12 months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

- Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
- Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
- Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.)
- Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
- Row (E) Add the totals from columns (A) through (D) above. Enter this amount.

### Part IV – Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the 12 months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

- Column (F) List the type of asset (i.e., checking account, savings account, etc.)
- Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
- Column (H) Enter the cash value of the respective asset.
- Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
- TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the Greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income from All Sources Add (E) and (K) and enter the total

### HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than five days prior to the effective date of the certification.

#### Part V – Determination of Income Eligibility

Total Annual Household Income from all sources Enter the number from item (L).

Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size.

Household income at move-in Household size at move-in For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140% For recertification only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

#### Part VI – Rent

Tenant Paid Rent Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).

Rent Assistance Enter the amount of rent assistance, if any.

Utility Allowance Enter the utility allowance. If the owner pays all utilities, enter zero.

Other non-optional charges Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.

Gross Rent for Unit Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.

Maximum Rent Limit for this unit Enter the maximum allowable gross rent for the unit.

Unit Meets Rent Restriction at \_\_\_% Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

### Part VII – Student Status

If all household members are full-time\* students, check “yes.” If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

\* *Full time is determined by the school the student attends.*

### Part VIII – Program Type

Mark the program(s) for which this unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit                      See Part V above.

HOME                              If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.

Tax Exempt                      If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.

AHDP                              If the property participates in the Affordable Housing Disposition Program (AHDP), and this household’s unit will count towards the set-aside requirements, mark the appropriate box indicating the household’s designation.

Other                                If the property participates in any other affordable housing program, complete the information as appropriate.

### SIGNATURE OF OWNER / REPRESENTATIVE

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well-trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

**TABLE OF CONTENTS**

**EXHIBIT B-2  
FORM OF INCOME RECERTIFICATION**

**INCOME CERTIFICATION**

Initial Certification    Recertification    Other\* \_\_\_\_\_

Effective Date: \_\_\_\_\_

Move-in Date: \_\_\_\_\_  
(MM/DD/YYYY)

\*Transfer from Unit: \_\_\_\_\_

**PART I - DEVELOPMENT DATA**

Property Name: \_\_\_\_\_ County: \_\_\_\_\_  
Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_

**PART II. HOUSEHOLD COMPOSITION**

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	Last 4 digits of Social Security Number
1			HEAD		
2					
3					
4					
5					
6					
7					

**PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)**

HH Mbr #	(A) Employment/Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$	\$	\$	\$
Add totals from (A) through (D) above			<b>TOTAL INCOME (E):</b>	\$

**PART IV. INCOME FROM ASSETS**

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
<b>TOTALS:</b>			\$	\$

**TOTAL INCOME FROM ASSETS (K)**

\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

**HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

**PART V. RENT**

A. Tenant Paid Rent:	\$	_____
B. Rent Assistance:	\$	_____
C. Other non-optional charges and mandatory fees:	\$	_____
D. Gross Rent For Unit (See Instructions):	\$	_____

**PART VI. DETERMINATION OF INCOME ELIGIBILITY**

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1	\$ <span style="border: 1px solid black; display: inline-block; width: 40px; height: 20px; vertical-align: middle;"></span>	Household Meets Income Restriction at:	RECERTIFICATION ONLY: Current Income Limit x 140%
Current Income Limit per Family Size: \$ _____		<input type="checkbox"/> 60% <input type="checkbox"/> 50%	\$ _____
Household Income at Move-in \$ _____		<input type="checkbox"/> 40% <input type="checkbox"/> 30%	Household income exceeds 140% at recertification:
		<input type="checkbox"/> __%	<input type="checkbox"/> Yes <input type="checkbox"/> No
			Household Size at Move-in: _____

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of program's rules, regulations and the Regulatory Agreement, to live in a unit in this Project.

_____ SIGNATURE OF OWNER/REPRESENTATIVE	_____ DATE
--	---------------

**PART VIII. HOUSEHOLD DEMOGRAPHICS**

*Please complete for each household member. See below for Ethnicity, Race, and Other codes that characterize the household composition.*

HH Mbr #	Sex – enter M or F	Ethnicity	Race <i>Enter up to 5 categories</i>	Disabled
1				
2				
3				
4				
5				
6				
7				

*The Minnesota Housing Finance Agency is required to comply with HUD’s reporting requirements; however, you are not required to provide this information. You may not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please initial below.*

**RESIDENT/APPLICANT:** I do not wish to furnish information regarding ethnicity, race, sex, and disability status.  
(Initials) \_\_\_\_\_

<b>Ethnicity:</b>	Enter each household member’s ethnicity by using one of the following coded definitions:	<ol style="list-style-type: none"> <li>1. Hispanic or Latino</li> <li>2. Not Hispanic or Latino</li> <li>3. Tenant did not respond</li> </ol>
<b>Race:</b>	Enter each household member’s race by using, at least one, of the following coded definitions ( <i>up to 5 categories may be selected</i> ):	<ol style="list-style-type: none"> <li>1. White</li> <li>2. Black/African American</li> <li>3. American Indian/Alaska Native</li> <li>4. <b>Select from the following:</b> <ol style="list-style-type: none"> <li>4a Asian India</li> <li>4b Chinese</li> <li>4c Filipino</li> <li>4d Japanese</li> <li>4e Korean</li> <li>4f Vietnamese</li> <li>4g Other Asian</li> </ol> </li> <li>5. <b>Select from the following:</b> <ol style="list-style-type: none"> <li>5a Native Hawaiian</li> <li>5b Guamanian or Chamorro</li> <li>5c Samoan</li> <li>5d Other Pacific Islander</li> </ol> </li> <li>6. Other</li> <li>7. Tenant did not respond</li> </ol>
<b>Disabled:</b>	Check yes if any member of the household is disabled according to Fair Housing Act definition for handicap (disability): <ul style="list-style-type: none"> <li>• A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used in this definition, please see 24 CFR 100.201, available at <a href="http://www.fairhousing.com/index.cfm?method=page.display&amp;pagename=regs_fhr_100-201">http://www.fairhousing.com/index.cfm?method=page.display&amp;pagename=regs_fhr_100-201</a>.</li> <li>• “Handicap” does not include current, illegal use of or addiction to a controlled substance.</li> </ul>	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. No</li> <li>3. Tenant did not respond</li> </ol>

**EXHIBIT C**

**CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

(DATE)

TO: City of Falcon Heights, Minnesota  
Falcon Heights City Hall  
2077 Larpenteur Avenue W  
Falcon Heights, MN 55113-5551  
Attn: City Administrator

and (prior to the discharge of the Note (hereinafter defined))

Bridgewater Bank  
4450 Excelsior Boulevard, Suite 100  
St. Louis Park, MN 55416  
Attn: Nicholas Place, Senior Vice President

Re: Multifamily Housing Revenue Refunding Note (Amber Union Project), Series 2021 (the “Note”)

The undersigned, an authorized representative for Buhl GTA, LP, a Minnesota limited partnership (the “Owner”), hereby certifies, represents, and warrants that:

1. The Owner owns the multifamily housing project located in Falcon Heights, Minnesota and known as the Amber Union Apartments Project (the “Project”).

2. The undersigned and the Owner have read and are thoroughly familiar with the provisions of (1) the Regulatory Agreement, dated \_\_\_\_\_, 2021 (the “Regulatory Agreement”), between the Owner, the City of Falcon Heights, Minnesota (the “Issuer”), and Bridgewater Bank (the “Purchaser”); and (2) the Loan Agreement, dated \_\_\_\_\_, 2021 (the “Agreement”), between the Issuer and the Owner. The Regulatory Agreement was executed, delivered, and recorded against the Project in connection with the issuance of the Note.

3. A review of the activities of the Owner and of the Owner’s performance under the Regulatory Agreement and the Loan Agreement during the year ending \_\_\_\_\_ has been made under the supervision of the undersigned.

4. The Project’s Qualified Project Period commenced on \_\_\_\_\_ (the date on which 10% of the residential units in the Project were occupied), and will end on the latest of:

(i) \_\_\_\_\_, \_\_\_\_ (the date which is 15 years after the date on which 50% of the residential units in the Project were occupied);

(ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or

(iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.



5. As of the date of this Certificate, the following percentages of completed residential units in the Project are (i) occupied by Low Income Tenants or (ii) currently vacant and being held available for occupancy by Low Income Tenants and have been so held continuously since the date a Low Income Tenant vacated such unit, as indicated:

Occupied by Low Income Tenants	_____ % Units	Nos. _____
Continuously held vacant for occupancy by Low Income Tenants since last occupied by Low Income Tenants	_____ % Units	Nos. _____

6. At no time since the date of filing of the last Continuing Program Compliance Certificate (or since the issuance of the Note, if this is the first such certificate) has less than \_\_\_\_\_ units representing 40% of the completed units in the Project been occupied by or were last occupied by Low Income Tenants.

7. As of the date of this Certificate, at least 20% of the units in the Project are (i) occupied by persons or families with Adjusted Income which does not exceed 50% of the Median Income for the Area adjusted for household size; or (ii) held vacant for occupancy for persons or families with Adjusted Income which does not exceed 50% of the Median Income for the Area adjusted for household size. Project Units occupied or held vacant for persons or families with Adjusted Income which does not exceed 50% of the Median Income for the Area adjusted for household size include Unit numbers \_\_\_\_\_.

8. At all times since the date of filing of the last Continuing Program Compliance Certificate rent on at least 20% of the units in the Project has been equal to or less than applicable area fair market rents or exception for fair market rents, established from time to time by the United States Department of Housing and Urban Development.

9. To the knowledge of the undersigned, after due inquiry, all units were rented or available for rental on a continuous basis during the immediately preceding year to members of the general public, and the Owner is not now and has not been in default under the terms of the Regulatory Agreement and the Loan Agreement and, to the knowledge of the undersigned, no Determination of Taxability has occurred with respect to the Note.

10. [**CHOOSE ONE:** None/One or more] of the Tenants in the Project are currently receiving assistance under Section 8 of the United States Housing Act of 1937.

11. Unless otherwise expressly provided herein or unless the context requires otherwise, the capitalized terms used but not defined herein shall have the meaning assigned to such terms in the Regulatory Agreement.

12. The Owner has not transferred any interest in the Project since the date of submission of the Continuing Program Compliance Certificate last submitted to the Purchaser and the Issuer with respect to the Project. **(If the Owner has transferred any interest in the Project, such transfer should be detailed here.)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature page of the Borrower to the Certificate of Continuing Program Compliance.

Dated: \_\_\_\_\_, \_\_\_\_\_.

BUHL GTA, LP, a Minnesota limited partnership

By: Buhl GTA GP, LLC, a Minnesota limited liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC, a Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC, a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic,  
Its: Chief Manager

## EXHIBIT D

### HUD RIDER TO RESTRICTIVE COVENANTS

This RIDER TO RESTRICTIVE COVENANTS is made as of \_\_\_\_\_, 2021, by Buhl GTA, LP (“Borrower”) and the City of Falcon Heights, Minnesota (“Agency”).

WHEREAS, Borrower has obtained financing from Bridgewater Investment Management, Inc. (“Lender”) for the benefit of the project known as Amber Union (“Project”), which loan is secured by a **[name of security instrument]** (“Security Instrument”) dated as of \_\_\_\_\_, 2021, and recorded in the Recorder’s Office of Ramsey County, Minnesota (“Records”) on \_\_\_\_\_, 2021 as Document Number \_\_\_\_\_, and is insured by the United States Department of Housing and Urban Development (“HUD”);

WHEREAS, Borrower has received tax-exempt bond financing from the Agency, which Agency has required certain restrictions be recorded against the Project; and

WHEREAS, HUD requires as a condition of its insuring Lender’s financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

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

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

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

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

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

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

“Lender” means Bridgewater Investment Management, Inc., its successors and assigns.

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

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

“National Housing Act” means the National Housing Act, 12 USC § 1701 *et seq.*, as amended.

“Program Obligations” has the meaning set forth in the Security Instrument.

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

“Restrictive Covenants” means the Amended and Restated Regulatory Agreement dated \_\_\_\_\_, 2021 between the Agency, Borrower, and Lender.

“Security Instrument” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

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

- (c) Notwithstanding anything in the Restrictive Covenants to the contrary, except the requirements in 26 U.S.C. 42(h)(6)(E)(ii), to the extent applicable, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.
- (d) In accordance with 26 U.S.C. 42(h)(6)(E)(i)(1), in the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate, with the exception of the requirements of 26 U.S.C. 42(h)(6)(E)(ii) above, to the extent applicable, or as otherwise approved by HUD.
- (e) Borrower and the Agency acknowledge that Borrower’s failure to comply with the covenants provided in the Restrictive Covenants will does not and will not serve as a basis for default under the HUD Requirements, unless a separate default also arises under the HUD Requirements.
- (f) Except for the Agency’s reporting requirement, in enforcing the Restrictive Covenants the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve

or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Borrower is a for-profit entity;
  - ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
  - iii. Available residual receipts authorized for release by HUD, if the Borrower is a non-profit entity[.]; or
  - iv. A HUD-approved collateral assignment of any HAP contract.]
- (g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.
- (h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.
- (i) Notwithstanding anything to the contrary contained herein, it is not the intent of any of the parties hereto to cause a recapture of the Low Income Housing Tax Credits or any portion thereof related to any potential conflicts between the HUD Requirements and the Restrictive Covenants. Borrower represents and warrants that to the best of Borrower's knowledge the HUD Requirements impose no requirements which may be inconsistent with full compliance with the Restrictive Covenants. The acknowledged purpose of the HUD Requirements is to articulate requirements imposed by HUD, consistent with its governing statutes, and the acknowledged purpose of the Restrictive Covenants is to articulate requirements imposed by Section 42 of the Code. In the event an apparent conflict between the HUD Requirements and the Restrictive Covenant arises, the parties and HUD will work in good faith to determine which federally imposed requirement is controlling. It is the primary responsibility of the Borrower, with advice of counsel, to determine that it will be able to comply with the HUD Requirements and its obligations under the Restrictive Covenants. No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.

The statements and representations contained in this rider and all supporting documentation thereto are true, accurate, and complete. This certification has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring a multifamily loan, and may be relied upon by HUD as a true statement of the facts contained therein.

**Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent**

**statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.**

BUHL GTA, LP, a Minnesota limited partnership

By: Buhl GTA GP, LLC, a Minnesota limited liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC, a Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC, a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic  
Its: Chief Manager

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Peter Deanovic, the Chief Manager of Buhl Investors, LLC, a Minnesota limited liability company, the Manager of Buhl Value Fund I Manager, LLC, a Delaware limited liability company, the Manager of Buhl GTA GP, LLC, a Minnesota limited liability company and the General Partner of Buhl GTA, LP, a Minnesota limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public

CITY OF FALCON HEIGHTS, MINNESOTA

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Administrator

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF RAMSEY     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Randy Gustafson and Sack Thongvanh, the Mayor and City Administrator, respectively, of the City of Falcon Heights, Minnesota, a municipal corporation and a political subdivision under the laws of the State of Minnesota, on behalf of said City.

\_\_\_\_\_  
Notary Public



## LOAN PURCHASE AGREEMENT

**THIS LOAN PURCHASE AGREEMENT (“Agreement”)** is made as of June \_\_\_\_, 2021, by and between **BUHL GTA, LP**, a Minnesota limited partnership (“**Borrower**”), and **BRIDGEWATER INVESTMENT MANAGEMENT, INC.**, a Minnesota corporation (“**Lender**”).

### RECITALS

A. The Borrower has requested that Lender purchase the Note (as later defined) from the Issuer (as later defined) and extend a loan in the amount of Twenty-Six Million Nine Hundred Seventy-Four Thousand One Hundred Eighty-Eight and 00/100 Dollars (\$26,974,188.00) (the “**Loan**”), the proceeds of which are to be used by Borrower for the acquisition and development of an approximately 125-unit multifamily rental affordable housing development located at 1667 Snelling Avenue, in the City of Falcon Heights, County of Ramsey, State of Minnesota (the “**Project**”).

B. The Lender is willing to agree to provide the Loan to the Borrower on the terms and conditions hereinafter contained.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. **Documents Delivered by Borrower.** To induce the Lender to commit to make the requested Loan, and as a condition of making the Loan to the Borrower, the Borrower shall, on the date hereof, deliver or caused to be delivered to Lender the following, all of which shall be in form and substance acceptable to the Lender:

(a) **Phase I Environmental Report.** A report of a phase I environmental site assessment of the Property (“**Phase I**”) conducted by a consultant reasonably acceptable to the Lender which discloses no existing or potential hazardous waste or environmental concerns with respect to the Property, or in the alternative, a reliance letter addressed to the Lender authorizing the Lender to rely on an existing Phase I.

(b) **Certified Survey.** A current ALTA/NSPS Survey of the real property located at 1667 Snelling Avenue, Falcon Heights, Minnesota (the “**Property**”) (“**Survey**”) prepared by a licensed surveyor in the State of Minnesota and certified to the Borrower, Lender and Title Company, which shall comply with 2021 ALTA Survey Minimum Standard Detail Requirements in effect and indicate all applicable Table A requirements, including without limitation the location of all improvements (if any), utilities and easements thereon.

(c) **Appraisal.** A current “as is”, “as completed” and “as stabilized” appraisal of the Property and the Project (“**Appraisal**”) prepared by an MAI appraiser licensed in the State of Minnesota and acceptable to the Lender, establishing an “as is”, “as completed” and “as stabilized” value for the Project.

(d) Flood Plain Determination. Evidence that the Property is not located in a flood plain that requires flood insurance.

(e) Insurance Certificate. Certificate of insurance evidencing a policy or policies of insurance covering the Borrower's operations and the Project as required by Section 5.2 of this Agreement, such policy to insure against all risks.

(f) Financial Statements. Current financial statements of Borrower and Guarantor in a form and prepared in a manner reasonably acceptable to the Lender.

(g) Searches. Complete UCC, state and federal tax lien, bankruptcy and judgment searches on Borrower and Guarantor from such offices as the Lender may reasonably request which confirm that there are no interests which would be prior to the Lender's interest.

(h) Zoning Letter. Letter from the City of Falcon Heights, a municipal corporation organized under the laws of the State of Minnesota (the "**City**") confirming that the Property has been zoned appropriately for the Project.

(i) Permits. Copies of all permits then issued by the City and other governmental agencies or authorities with respect to the Project.

(j) Plans. A copy of all Plans for the Project together with evidence of the approval by the City of such Plans and Specifications ("**Plans**").

(k) Sworn Project Cost Statement. A sworn project cost statement certified by Borrower and a contractor stating in full and itemizing all soft and hard costs of acquisition and development of the Project ("**Project Costs**") and identifying all persons who will furnish labor or materials, or both, in connection with the Project.

(l) Contracts. Copies of all design, engineering, architectural, construction and other contracts in excess of \$100,000.00 entered into by Borrower for the Project ("**Contracts**").

(m) Documentation. The Loan Documents set forth in Section 2 herein.

2. Loan Documents. The Borrower shall, on the date hereof, deliver to Lender the following, all of which shall be in form and substance reasonably acceptable to the Lender, as evidence of Borrower's obligation to repay the Loan and to pay interest and other charges, fees and expenses thereon:

(a) Agreement. This Loan Purchase Agreement executed by the Borrower and Lender setting forth the terms and conditions of the Loan.

(b) Loan Agreement. That certain Loan Agreement executed by the Borrower and the Issuer of even date herewith, as assigned by the Issuer to the Lender ("**Loan Agreement**").

(c) Note. The Multifamily Housing Revenue Refunding Note (Amber Union Project) Series 2021 dated June \_\_\_, 2021 (the “**Note**”) issued by the City of Falcon Heights, Minnesota (the “**Issuer**”) in favor of the Lender in the principal amount of Twenty-Six Million Nine Hundred Seventy-Four Thousand One Hundred Eighty-Eight and 00/100 Dollars (\$26,974,188.00) (the “**Note**”);

(d) Assignment Agreement – Borrower. An Assignment of Capital Contributions executed by the Borrower in favor of Lender granting a security interest in the \_\_\_\_\_ installments of the capital contributions from the Limited Partner (as defined herein) to Borrower pursuant to the Partnership Agreement (as defined herein) (the “**Assignment Agreement – Borrower**”).

(e) Collateral Assignment of Contract Rights – Borrower. A Collateral Assignment of Contract Rights executed by the Borrower in favor of the Lender assigning certain contract rights to enforce the obligation of the Limited Partner to make the capital contributions to the Borrower as set forth in the Partnership Agreement (the “**Assignment of Contract Rights – Borrower**”).

(f) Pledge Agreement – General Partner. A Pledge Agreement – Partnership Interest executed by Buhl GTA GP, LLC, a Minnesota limited liability company, the General Partner of Borrower (the “**General Partner**”), in favor of Lender, assigning to Lender the general partnership interest held by General Partner in Borrower (the “**Pledge Agreement – General Partner**”).

(g) Assignment Agreement – General Partner. An Assignment of Capital Contributions Agreement executed by the General Partner in favor of Lender granting a security interest in the \_\_\_\_\_ installments of capital contribution from EHCP (as defined herein) to General Partner pursuant to the Operating Agreement (as defined herein) (the “**Assignment Agreement – General Partner**”).

(h) Collateral Assignment of Contract Rights – General Partner. A Collateral Assignment of Contract Rights executed by the General Partner in favor of the Lender assigning certain contract rights to enforce the obligation of EHCP to make the capital contributions to the Borrower as set forth in the Operating Agreement (the “**Assignment of Contract Rights – General Partner**”).

(i) Collateral Assignment of Tax Credit Purchase Agreement. A Collateral Assignment of Tax Credit Purchase Agreement executed by EHCP in favor of the Lender, assigning to Lender a portion the proceeds from the sale of the tax certificate evidencing the right to claim certain state tax credits by EHCP to Commerce Bancshares, Inc., a Missouri corporation (“**Buyer**”), pursuant to that certain Tax Credit Purchase Agreement between EHCP and Buyer dated June \_\_\_, 2021 (the “**Collateral Assignment of Purchase Agreement**”).

(j) Assignment of Loan Proceeds. An Assignment of Loan Proceeds executed by the Borrower in favor of the Lender, assigning to Lender the advances of the proceeds of the loan to be made by General Partner to the Borrower (the “**General Partner Loan**”).

pursuant to the terms of Section \_\_\_\_\_ of the Partnership Agreement and to be evidenced by a Promissory Note by the Borrower in favor of the General Partner (the “**Collateral Assignment of Loan Proceeds**”).

(k) Collateral Assignment of Tax Credit Certificate. A Collateral Assignment of Tax Credit Certificate executed by the Borrower in favor of the Lender, assigning to the Lender the Tax Credit Certificate to be issued by the Minnesota State Housing Preservation Office with respect to the Project (the “**Assignment of Tax Credit Certificate**”).

(l) Four-Party Agreement. A Four-Party Agreement executed by and between the Borrower, Managing Member, EHCP, and Lender, setting forth the rights, obligations and expectations of each of the parties with respect to the Tax Credit Certificate, the capital contribution from EHCP to the General Partner, the loan from the General Partner to the Borrower, the deposit of the proceeds of the capital contribution from EHCP to General Partner into an deposit account held at the Lender, and the deposit of the proceeds of the loan from the General Partner to the Borrower into a deposit account held at the Lender (the “**Four-Party Agreement**”).

(m) Pledge Agreement – Deposit Account – Borrower. A Pledge Agreement–Deposit Account executed by the Borrower in favor of the Lender pledging as additional collateral for the Loan the deposit account held by the Borrower at Bridgewater Bank, a Minnesota banking corporation (“**BWB**”) for the deposit of the capital contributions from the Limited Partner to the Borrower and the deposit of the proceeds from the General Partner Loan (the “**Pledge Agreement-Deposit Account – Borrower**”).

(n) Pledge Agreement – Deposit Account – General Partner. A Pledge Agreement–Deposit Account executed by the General Partner in favor of the Lender pledging as additional collateral for the Loan the deposit account held by the General Partner at BWB for the deposit of the capital contribution from EHCP to the General Partner (the “**Pledge Agreement-Deposit Account – General Partner**”).

(o) Financing Statement – Borrower. UCC-1 Financing Statement authorized and delivered by the Borrower perfecting the security interest in the Assignment Agreement – Borrower, Assignment of Contract Rights – Borrower, Assignment of Loan Proceeds, Assignment of Tax Credit Certificate and Pledge Agreement-Deposit Account – Borrower for filing in such offices as the Lender may deem necessary or desirable (“**Financing Statement – Borrower**”).

(p) Financing Statement – General Partner. UCC-1 Financing Statement perfecting the security interest in the Pledge Agreement – General Partner, Assignment Agreement – General Partner, Assignment of Contract Rights – EHCP and Pledge Agreement-Deposit Account – General Partner for filing in such offices as the Lender may deem necessary or desirable (“**Financing Statement – General Partner**”).

(q) Financing Statement – EHCP. UCC-1 Financing Statement perfecting the security interest created in the Collateral Assignment of Purchase Agreement for filing in

such offices as the Lender may deem necessary or desirable (“**Financing Statement - EHCP**”).

(r) Guaranty. A Guaranty (the “**Guaranty**”) of even date herewith, executed by Peter Deanovic (the “**Guarantor**”) in favor of Lender guarantying the Loan, as more fully set forth in the Guaranty.

(s) Loan Disbursement Agreement. A Loan Disbursement Agreement executed by the Borrower, Lender, and First American Title Insurance Company, a Nebraska corporation (the “**Title Company**”), as disbursing agent, setting forth the terms of disbursement of the Loan, by the Title Company for the payment of certain acquisition and development costs for the Project per the Project Budget (as hereinafter defined).

(t) Borrower Authority Documentation. A fully executed current set of Borrower’s and General Partner’s organizational documents (i.e. Certificate of Partnership, Amended and Restated Agreement of Limited Partnership, Articles of Organization, Operating Agreement, etc.), a Certificate of Good Standing, and a resolution authorizing the borrowing of the Loan (collectively, the “**Borrower Authority Documentation**”).

(u) Opinion of Counsel. Opinion of Counsel of the Borrower, General Partner and the Guarantor in favor of the Lender opining as to such matters reasonable and customary, and as required by Lender.

(v) Affidavit of Borrower. An Affidavit of Borrower setting forth that there are no judgments, tax liens, mechanic’s liens, or other adverse items with respect to the Borrower.

(The foregoing shall be hereinafter referred as the “**Loan Documents**”).

### **3. Commitment of Lender.**

3.1. Advancing Loan. So long as there exists no Event of Default hereunder and no event has occurred which would be an Event of Default with the giving of notice or lapse of time or both, and subject to all other terms and conditions hereof, the Lender agrees to purchase the Note from the Issuer relating to the Project, and along therewith take an assignment from the Issuer of the Loan Agreement. Notwithstanding anything to the contrary contained herein, the maximum available amount under the Loan to Borrower for advances shall not exceed the amount of Twenty-Six Million Nine Hundred Seventy-Four Thousand One Hundred Eighty-Eight and 00/100 Dollars (\$26,974,188.00) (the “**Loan Amount**”). Out of the Loan Amount, the amount of \$\_\_\_\_\_ (the “**Interest Reserve**”) shall be restricted and used to make interest payments on the Loan and the amount of \$\_\_\_\_\_ (the “**Construction Amount**”) shall be used for acquisition and development costs of the Project. The Lender shall make advances of the Construction Amount pursuant to Section 3.1 hereof.

The Loan shall be interest only until the Maturity Date when the Loan shall be due and payable in full, subject to the Borrower being able to extend such date pursuant to the terms and conditions of the Note.

(a) Project Budget. Borrower shall provide Lender a budget for acquisition and development of the Property for the Project (the “**Project Budget**”), which shall contain additional columns to list each of the following: i) the change, if any, in the line item from the original Project Budget; ii) the amount of the current draw for each line item; iii) the amount drawn to date, including the current draw request, for each line item; and iv) the amount remaining to be drawn for each line item.

(b) Borrowing Procedure for Advances. Provided there is not an Event of Default, Borrower may request cash advances at any time and from time to time up to the amount of the Construction Amount by submitting to the Lender at least five (5) business days (as determined in the State of Minnesota) before the date of any requested advance all of the items requested in Section 2.1(d) herein along with a written request for advance delivered to the Lender specifying the use to which the proceeds of such advance will be put and certifying that such amounts are currently payable (excluding retainage, if any) for certain development costs in connection with the Property for the Project.

(c) Within five (5) business days from receipt of such request along with all the documentation required in the preceding paragraph, the Lender shall advance to the Title Company amounts certified by the Borrower to be currently payable, provided that the Lender shall have the right, at its option, to refuse to make advances should there exist and be continuing an uncured Event of Default as defined in Section 6.1 hereof.

(d) Advances. All requests for an advance shall be supported by the following:

(i) Written certification(s) from Borrower and the inspecting architect designated by the Lender for the Lender’s benefit \_\_\_\_\_ (the “**Inspecting Architect**”) that, based upon a visual physical inspection of the Project, the work to be paid for with the proceeds of the requested advance has been completed in a good and workmanlike manner and the costs to be paid for with such proceeds have been actually incurred by the Borrower; and

(ii) The Borrower’s written certification in the form of **Exhibit B** attached hereto (the “**Borrower Certificate**”) that the funds remaining of the Construction Amount, with respect to the Project, along with other committed financing sources or funds to be provided by the Borrower, pursuant to the terms of this Agreement, to fully complete the Project, together with an updated Project Budget, if applicable, showing any changes in the projected time of expenditure or amount of costs or expenses with respect to the Project.

(e) Lender’s Right to Inspection of the Project. Borrower shall be responsible for the cost and expense of the Inspecting Architect to verify the work on the Project has been completed in a good and workmanlike manner and such costs have been actually incurred by Borrower prior to any disbursement being made under this Agreement. The

Lender shall have the right to physically visit the Project as it deems reasonably necessary to assess the development of the Project, and Borrower agrees to bear all reasonable travel costs and expenses of the Lender to routinely inspect the Project. Notwithstanding the foregoing, Lender shall provide Borrower with twenty-four (24) hours advance notice prior to any such inspection and Borrower shall have the right to be present at any such inspection by Lender and Lender's agents and employees.

(f) Disbursement of Loan Proceeds. The Title Company shall disburse at its discretion either directly to the third parties to be paid or directly to Borrower funds advanced to it in accordance with this Agreement. In the event the Title Company shall fail to disburse any advance within one (1) business day after the date of receipt of such advance from the Lender, the Title Company shall return said advance to the Lender, and interest on such advance shall abate from and after the date of such return. Any amounts advanced to the Title Company and returned by the Title Company to the Lender shall not be deemed to have been advanced against this Note.

(g) No Change in Title. The Title Company shall not disburse any funds hereunder if there have been any changes in the status of title which have not been (i) consented to in writing by Lender, such consent not to be unreasonably withheld, conditioned or delayed, or (ii) with respect to any lien, charge or other encumbrance, discharged by bonding or otherwise. Title Company shall in any event promptly notify Lender of any change in the status of title to the Property. After prior written notice to Lender, Borrower may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Borrower or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute an Event of Default.

(h) Forms. The form of request for advance, mechanic's lien waivers, certificates and any and all other instruments or documents required to be delivered in connection with an advance hereunder shall be in form and substance reasonably satisfactory to Lender and the Title Company.

(i) Conditions Precedent to All Advances. The obligation of the Lender to make any advances against the Note shall be subject to the further conditions precedent that on the date of such advance the following statements shall be true in all material respects (the receipt by the Borrower of the proceeds of such advance shall be deemed to constitute a representation or warranty by the Borrower that such statements are true in all material respects):

(i) The representations and warranties contained in Section 4 hereof are correct on and as of the date of such advance as though made on or as of such date; and

(ii) No Event of Default, as hereinafter defined, is continuing, or would result from such advance and no event has occurred which with the giving of notice or passage of time or both would mature into an Event of Default hereunder.

3.2. Fees.

(a) Origination Fee. On the date hereof, Borrower shall pay the Lender an origination fee equal to 0.75% of the Loan Amount or \$202,306.41.

(b) Late Fees. Borrower agrees to pay a late payment service charge in an amount equal to five percent (5.0%) of any installment of principal or interest, but excluding the balloon payment due upon maturity or acceleration, not received by the Lender within ten (10) days after the date due.

3.3. Interest and Payments.

(a) Monthly payments shall be made according to the terms of the Note until the Maturity Date.

(b) Interest will accrue on the Note as stated therein.

3.4. Maturity. All unpaid principal of the Note and all interest accrued thereon shall be due and payable on or before December \_\_\_\_, 2023 (the “**Maturity Date**”), subject to the Borrower being able to extend such date pursuant to the terms and conditions of the Note.

3.5. Computations. Interest on the Note and any other compensation payable to Lender thereunder shall be computed on a 365/360 basis; that is, by applying the ratio of the annual 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.

4. Representations and Warranties. The Borrower represents and warrants that:

4.1. Organization, Qualification and Authorization. Borrower is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Minnesota; has the power and authority to own its property and to carry on its business as now being conducted; and is duly qualified and licensed to do business, and is in good standing, in every jurisdiction in which the nature of the business in which it is engaged makes such qualification or licensing necessary.

4.2. Validity of Obligations. Borrower has full power, right and authority to execute and deliver this Agreement, the Loan Documents and all other documents and agreements required to be delivered by it hereunder, to obtain the credit herein provided for, and to perform and observe each and all of the matters and things provided for in the Loan Documents. The execution and delivery of the Loan Documents and the performance or observance of the terms thereof has been duly authorized by all necessary company and member action and do not contravene or violate any provision of law or any provision of the Borrower’s organizational documents or any covenant, indenture or agreement of or binding upon Borrower nor require the consent or approval of any governmental entity or agency.



4.3. Title to Assets. The Borrower has good and marketable title to all of its property and assets reflected in the latest financial statements delivered to the Lender, subject to the encumbrances as therein detailed, and subject to such restrictions, easements, encroachments and other encumbrances to which such assets are customarily subject or which have no material adverse effect on the value of the Project.

4.4. Litigation. To its actual knowledge, no actions, suits or proceedings are pending or, to Borrower's knowledge, threatened, against or affecting it before any court, governmental or administrative body or agency which could reasonably be expected to result in any material adverse change in the operations, business property, assets or condition (financial or otherwise) of Borrower, or which could reasonably be expected to question the validity of this Agreement or of any action taken or to be taken by the Borrower pursuant to or in connection with this Agreement.

4.5. No Events of Default. No Event of Default as hereinafter defined has occurred and is continuing as of the date hereof and no event has occurred and is continuing which would be an Event of Default hereunder were it not for any grace period specified herein or which would become an Event of Default if notice thereof were given to Borrower.

4.6. Use of Proceeds. The Borrower shall use the proceeds of the Construction Amount to pay the Project Costs for which the advance is made or in accordance with the Project Budget.

4.7. Financial Condition. The financial statements of the Borrower and Guarantor heretofore furnished to the Lender, if any, are complete and correct in all material aspects and fairly present the financial condition of the Borrower and Guarantor, respectively, as of the date of such statements, and have been prepared in accordance with generally accepted accounting principles, consistently applied. Since the most recent set of financial statements delivered by the Borrower and Guarantor to the Lender, there have been no material adverse changes in the financial condition of the Borrower or Guarantor, respectively.

4.8. Licenses. The Borrower possesses adequate licenses, permits, franchises, patents, copyrights, trademarks and trade names, or rights thereto, to conduct its business substantially as now conducted and as presently proposed to be conducted.

4.9. Taxes. The Borrower and Guarantor have filed all tax returns required to be filed and either paid all taxes shown thereon to be due, including interest and penalties, which are not being contested in good faith and by appropriate proceedings, or provided adequate reserves for payment thereof, and the Borrower has no information or knowledge of any objections to or claims for additional taxes in respect of federal income or excise profit tax returns for prior years.

5. Affirmative Covenants. The Borrower covenants and agrees with Lender that so long as any amount remains unpaid on the Note, Borrower will:

5.1. Maintain Assets. Maintain and keep its assets, properties and equipment in good repair, working order and condition and from time to time make or cause to be made all needed renewals, replacements and repairs so that at all times Borrower's business can be operated efficiently.

5.2. Insurance. Insure and keep insured all of its property of an insurable value (except sign structures, posters, or panels) under policies in an amount reasonably acceptable to the Lender and carry such other property insurance as is usually carried by persons engaged in the same or similar business, and from time to time furnish to Lender upon request appropriate evidence of the carrying of such insurance, but not more often than twice in a calendar year.

5.3. Financial Information. Furnish to the Lender:

a) Within ninety (90) days after the end of Borrower's fiscal year, a set of financial statements for such fiscal year, including a balance sheet, statement of cash flow, profit and loss statement and related statements, prepared and certified as accurate by an officer of Borrower, in accordance with generally-accepted accounting principles;

b) As soon as available and in any event within thirty (30) days after such returns are filed, which in any event shall be no later than October 25th each year, a copy of the federal and state income tax return of the Borrower (including all schedules and exhibits) or amendments thereto filed for the immediately preceding year;

c) Within ninety (90) days after the end of each calendar year, Guarantor shall furnish a personal financial statement in similar format and detail as provided at the inception of the Loan and reasonably acceptable to Lender;

d) As soon as available and in any event within thirty (30) days after such returns are filed, which in any event shall be no later than October 25th each year, a copy of the federal and state income tax return of Guarantor (including all schedules and exhibits) or amendments thereto filed for the immediately preceding year; and

e) Once the development of the Project is completed, within ninety (90) days after the end of each calendar year, Borrower shall furnish a rent roll for the Property listing the name of each tenant, lease commencement date, lease termination date, monthly rent amount and amount of security deposit

f) Such other information as the lender may reasonably request from time to time.

5.4. Access to Records. Permit any person designated by Lender, at Lender's expense upon at least twenty-four (24) hour reasonable prior notice, to visit and inspect any of its properties, company books and financial records and to discuss its affairs, finances and accounts with the principal officers of Borrower, all at such reasonable times and as often as Lender may reasonably request.

5.5. Taxes, Assessments and Charges. Promptly pay over to the appropriate authorities all sums for taxes deducted and withheld from wages as well as the employer's contributions and other governmental charges imposed upon or asserted against Borrower's income, profits, properties and rental charges or otherwise which are or could reasonably be expected to become a lien charged upon Borrower's properties, unless the same are being contested in good faith by appropriate proceedings and adequate reserves shall have been established on Borrower's books with respect thereto.

5.6. Notification of Changes. Promptly notify the Lender of:

- a) Any litigation which might materially and adversely affect Borrower or Guarantor;
- b) The occurrence of any Event of Default under this Agreement or any event of which Borrower has knowledge and which, with the passage of time or giving of notice or both, would constitute an Event of Default under this Agreement;
- c) Any material adverse change in the operations, business, properties, assets or conditions, financial or otherwise, of the Borrower; or
- d) Such other information as the Lender may reasonably request from time to time.

5.7. Company Existence. The Borrower shall maintain its company existence in compliance with all applicable statutes, laws, rules and regulations.

5.8. Books and Records. Keep true and accurate books, records and accounts in accordance with sound accounting and bookkeeping practices.

5.9. Reimbursement of Expenses. Promptly reimburse Lender for any and all reasonable out-of-pocket expenses, and all fees and disbursements, including attorneys' fees, incurred in connection with the preparation and performance of this Agreement and the instruments and documents related thereto, and all expenses of collection of the Loan to be made hereunder, including reasonable attorneys' fees.

5.10. Environmental Compliance. Comply with all its obligations and undertakings in the Indemnification Agreement.

5.11. Lien Waivers. If not sooner provided to the Title Company, prior to the next advance, provide to the Lender and the Title Company executed and acknowledged lien waivers from those contractors and suppliers that were to be paid with the proceeds of the last advance in accordance with the Borrower's written request for such advance pursuant to Section 3.1 herein.

5.12. Loan in Balance. If at any time prior to completion of improvements of the Project, the amount remaining to be advanced against the Note, the loan in the principal amount of \$743,520.00 of even date herewith made by BWB to Borrower (the "**Taxable Loan**"), and other committed funding sources for the Project in the amounts projected in the Project Budget appears, in Lender's reasonable judgment, to be materially insufficient to pay for completion of such improvements (after exhaustion of the amounts designated as contingency in the Project Budget), Borrower shall deposit with Lender within ten (10) days after the demand therefor, the amount of money which Lender, in its reasonable discretion, determines is needed to cover such insufficiency.

5.13. Budget Line Items. All requests for advances against the Note shall be for costs shown on the Project Budget as revised from time to time. No advances in excess of the

amounts specified for each of the categories of the costs of the Project as set forth in the Project Budget as revised from time to time by Borrower and reasonably approved by Lender, shall be made by the Lender.

5.14. Maximum Cost. Develop the Project contemplated by the Plans at a cost not to exceed the amount set forth in the Project Budget.

5.15. Repayment of Excess Borrowings. Immediately pay to the Lender any amounts by which the outstanding principal balance of the Note exceeds the amount of the Loan or the construction costs of the Project exceed the Construction Amount and Taxable Loan.

5.16. Capital Contributions From Limited Partner. Borrower shall cause the Limited Partner (as defined herein) to deposit in escrow the installments of the capital contributions as and when due pursuant to the terms and conditions of the Partnership Agreement with the Title Company (collectively, the “**Limited Partner Contributions**”). When the Contributions are received by the Title Company from the Limited Partner, according to the terms of the Amended and Restated Agreement of Limited Partnership dated June 1, 2021 by and among the General Partner, RBC Community Investments, LLC, an Illinois limited liability company, or its assignees (the “**Limited Partner**”), as limited partner, and RBC Community Investments Manager II, Inc., a Delaware corporation, as special limited partner (the “**Partnership Agreement**”), Borrower shall cause the installments of the Contributions to be used first to pay the Loan in full, then to pay the Taxable Loan in full, and then to pay items as provided in the Partnership Agreement or directed by Borrower.

5.17. Capital Contributions From EHCP. Borrower shall cause the General Partner to cause EHCP to pay the \_\_\_\_ installments of the capital contribution as and when due pursuant to the Operating Agreement with Lender (the “**EHCP Contributions**”). When the EHCP Contributions are received by the General Partner from EHCP, according to the terms of the Amended and Restated Operating Agreement dated June \_\_, 2021 by and between EHCP Minnesota Fund VI, LLC, a Missouri limited liability company (“**EHCP**”), as state investor member, and Buhl Value Fund II, LLC, a Delaware limited liability company (the “**Operating Agreement**”), Borrower shall cause the General Partner to use the proceeds from the EHCP Capital Contributions, except for the first installment, to make the General Partner Loan and then the Borrower shall use the proceeds of the General Partner Loan to repay the Loan in full, then to pay the Taxable Loan in full and then to pay items as provided in the Operating Agreement or directed by General Partner.

5.18. Interest Reserve. Borrower agrees the amount of \$\_\_\_\_\_ of the Loan shall be restricted by Lender (“**Interest Reserve**”), which Lender may advance against monthly for interest payments due under the Note. Borrower acknowledges that Lender may automatically deduct monthly payments directly from the Interest Reserve and the failure of the amount of the Interest Reserve to be sufficient to cover all interest during the interest only phase of the Loan shall not alleviate Borrower’s obligation to timely make payments under the Note.

5.19. Liquidity and Net Worth. Cause the Guarantor to maintain verifiable liquidity in amount of no less than \$500,000.00 to be measured annually commencing on

December 31, 2021 and each year thereafter and a net worth in an amount of no less than \$10,000,000.00 at all times while the Loan is outstanding.

6. **Negative Covenants**. The Borrower hereby covenants and agrees with the Lender that so long as any amount shall remain unpaid on the Note, or so long as Lender has any obligation to make advances hereunder, Borrower will not:

6.1. **Merge, Consolidate or Sell**. Merge or consolidate with or into another entity, or lease or sell all or substantially all of its property and business to any other entity or entities. Guarantor and General Partner shall not sell, dispose or transfer any of its direct or indirect partnership interest in the Borrower in a single or series of transactions to any party not an affiliate of the General Partner or Guarantor or a partner of Borrower without the express written consent of the Lender; provided, Borrower shall provide to Lender prior written notice and the name and contact information of such transferee that is an affiliate of the General Partner or Guarantor or a partner of Borrower. Borrower shall not allow, either direct or indirect, a transfer of any partnership interest in the Borrower in a single or series of transactions to any party not an affiliate of the General Partner or Guarantor or a partner of Borrower without the express written consent of the Lender; provided, Borrower shall provide to Lender prior written notice and the name and contact information of such transferee that is an affiliate of the General Partner or Guarantor or a partner of Borrower.

Notwithstanding any provision in this Agreement to the contrary, any transfer of an ownership interest by the Limited Partner in the Borrower to an entity in which the Limited Partner, holds a direct or indirect controlling interest will not constitute an Event of Default under this Agreement or any other Loan Document; provided the successor limited partner remains liable for payment of any capital contributions under the Partnership Agreement of the Borrower and has the financial wherewithal to make such payments. Upon replacement of the limited partner in the Borrower, Lender shall be notified with reasonable promptness of the name and contact information of the successor limited partner. Further, any transfer of the General Partner's interest in the Borrower, including pursuant to Section \_\_\_\_ of the Partnership Agreement, shall require prior written notice to the Lender and be subject to the terms of Section 6.1 while any portion of the Loan is outstanding.

Further, notwithstanding the foregoing, Limited Partner may remove the General Partner for cause in accordance with the Partnership Agreement (the "**Removal**"), and replace the General Partner with an affiliate (the "**Interim Replacement GP**") and the Interim Replacement GP may act as a temporary replacement general partner of Borrower; provided, the Interim Replacement GP shall serve for a period not to exceed one hundred twenty (120) days from the date of the Removal (the "**Interim Period**"), which Interim Period may be extended by Lender, in Lender's sole and reasonable discretion, upon advance written notice from the Limited Partner requesting such extension, provided that:

- (a) Lender shall receive prior written notice of the Removal and the name and contact information of the Interim Replacement GP .
- (b) Lender may at any time by written notice to the Limited Partner revoke the consent given in this Section 6.1 during the Interim Period, if Lender becomes

aware of any conditions or circumstances that would materially inhibit or compromise the ability of Interim Replacement GP from acting as an interim general partner in accordance with the terms and conditions and provisions of the Loan Documents or the Partnership Agreement.

(c) After the Interim Period as may be extended, any proposed permanent replacement of the Borrower's general partner, including the Interim Replacement GP staying in place beyond the Interim Period, is subject to Lender's consent pursuant to the terms and conditions and provisions of the Loan Documents, including the requirements to maintain the low income housing restrictions with respect to the Project and any applicable requirements for Lender's consent of transferring all or any part of the physical assets that compromise the Project or Property and shall include the replacement general partner executing a pledge of its partnership interest in the Borrower similar in form and content as the Pledge Agreement – General Partner.

6.2. Default on Other Obligations. Default upon or fail to pay, beyond any applicable periods of grace, any of its other material debts or obligations as the same mature, unless the same are being contested in good faith by appropriate proceedings and adequate reserves shall have been established on Borrower's books with respect thereto.

6.3. Amendments, Waivers, Etc. Without obtaining the Lender's prior written consent, which consent shall not unreasonably be withheld, conditioned or delayed, amend, alter, waive, extend or otherwise modify any material term, covenant, condition, or provision of the Plans, or any Material Contracts (any contract for goods or services estimated to cost in excess of \$100,000.00 being deemed material).

6.4. PACE Improvements. Obtain credit or other financing arrangements for the construction or installation of energy efficiency and conservation improvements located at the Property as provided for under Minn. Stat. § 216C.435, 216C.436 or Chapter 429 or any other statutory law of any other state or federal government or allow any assessment, lien, encumbrance or other security interest to be granted against the Property or any improvements located therein as security for any such energy efficiency and conservation improvements, without the prior written consent of the Lender.

6.5. General Partner Loan Documents. Without obtaining the Lender's prior written consent, amend or modify any provisions of the Operating Agreement or documents setting forth the General Partner Loan being made by General Partner to the Borrower or modify the amount of the loan or the timing of any advances of proceeds thereunder.

## 7. Defaults.

7.1. Event of Default. Any one or more of the following events shall constitute an Event of Default:

a) Payment. Borrower shall fail to pay, within ten (10) days of when due, any payments due under the Note; or

b) Default. The Borrower shall fail to pay any other amounts required to be paid by the Borrower under the Note, this Agreement, or any of the Loan Documents (as defined in this Agreement) or any other indebtedness of the Borrower to the Lender within ten (10) days of when due.

c) Other Covenants or Agreements Herein. Borrower shall default in any material respect in the due performance or observance of any term, covenant or agreement contained in this Agreement or any of the other Loan Documents (other than payments under the Note) and such default shall continue for a period of thirty (30) days after written notice thereof shall have been given by Lender to Borrower or if such default does not consist of the non-payment of money and cannot reasonably be cured within thirty (30) days, for such longer period of time not exceeding sixty (60) days as may be necessary to cure such default with the exercise of due diligence so long as Borrower is diligently proceeding to cure such default; or

d) Events Affecting Guarantor. Guarantor revokes or disputes the validity of, or liability under, any guaranty of the Loan; or

e) Default In Favor of Third Parties. Borrower defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may reasonably be expected to materially affect the Property or Borrower's ability to repay the Note or perform Borrower's obligations under any of the Loan Documents and such default is not cured within thirty (30) days or is not capable of being cured, or such longer period as is necessary to cure such default not to exceed sixty (60) days; provided, Borrower is proceeding with due diligence to cure such default; or

f) Insolvency. Borrower or Guarantor shall (i) become insolvent, (ii) suspend business, (iii) make a general assignment for the benefit of its or their creditors, (iv) admit in writing its, his or their inability to pay its, his or their debts generally as they mature, (v) file a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any State thereof, (vi) consent to the appointment of a trustee or receiver for Borrower or for a substantial part of its, his or their property, (vii) be adjudicated a bankrupt or fail to cause an involuntary petition in bankruptcy to be dismissed within ninety (90) days after the filing thereof, (viii) take any action for the purpose of effecting or consenting to any of the foregoing, or (ix) have an order, judgment or decree entered appointing a trustee, conservator or receiver for Borrower or for a substantial part of its property, or approving a petition filed against Borrower seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any State hereof, which order, judgment or decree shall not be vacated or set aside or stayed within ninety (90) days from the date of entry; or

g) Representations and Warranties. If any material representation or warranty contained in this Agreement or any of the other Loan Documents or any letter or certificate furnished or to be furnished to the Lender by the Borrower pursuant to this

Agreement proves to be false in any material respect as of the date executed or delivered to Lender; or

h) Judgments. Judgments against Borrower for the payment of money totaling in excess of \$50,000.00 shall be outstanding for a period of sixty (60) days without a stay of execution; or

i) Material Adverse Change. Any material adverse change shall occur in the financial condition of the Borrower which, in the reasonable opinion of the Lender, which materially increases its risk with respect to repayment of the Note; or

j) Funding Deficiency. If Borrower fails to make any payment to the Lender required by Section 6.12 at the time required thereby.

k) Other Agreements. Borrower defaults under the terms and conditions of any other agreements with or indebtedness to the Lender beyond the expiration of any applicable notice and cure periods, including, but not limited to, an event of default, however defined, in the Taxable Loan.

l) General Partner Loan Document Default. An “event of default” occurs under the terms and conditions of any of the loan documents entered into by and between General Partner and the Borrower with respect to the Project beyond any applicable cure periods.

7.2. Lender’s Right on Default. Upon the occurrence of an Event of Default, Lender may, at its option and without notice: (a) refuse to advance against the Note; (b) accelerate amounts outstanding on the Note and demand their immediate payment in full without presentment or other demand, protest, notice of dishonor or any other notice of any kind, all of which are expressly waived; (c) enforce its security interest in the collateral pursuant to the Assignment Agreement – Borrower, Assignment of Contract Rights – Borrower, Pledge Agreement – General Partner, Pledge Agreement-Deposit Account – Borrower, Assignment Agreement – General Partner, Assignment of Contract Rights – General Partner, Pledge Agreement-Deposit Account General Partner, Assignment of Loan Proceeds, Assignment of Tax Credit Certificate and Collateral Assignment of Purchase Agreement; (d) enforce any remedies in any of the Loan Documents; and (e) take such other actions as may otherwise be available in equity or at law. All remedies of the Lender shall be cumulative.

## 8. Miscellaneous.

8.1. Binding Effect. The parties hereto agree that this Agreement shall be binding upon and inure to the benefit of their respective successors in interest and assigns including any holder of the Note, provided, however, that Borrower may not assign or transfer its interest hereunder without the prior written consent of the Lender.

8.2. Governing Law. This Agreement and the rights and obligations of the parties hereunder and under the Note, as applicable, and any other Loan Documents, shall be construed in accordance with and governed by the laws of the State of Minnesota. Borrower hereby



consents to the jurisdiction of the courts of the State of Minnesota for any actions brought hereon or on the Note, as applicable.

8.3. Notices. Any notices required or contemplated hereunder shall be effective upon two (2) business days after placing thereof in the United States mail, certified mail and with return receipt requested, postage prepaid, and addressed as follows:

If to Borrower:                   Buhl GTA, LP  
5100 Eden Avenue, Suite 317  
Edina, Minnesota 55436  
Attn: Peter Deanovic

With a copy to:                   Winthrop & Weinstine, P.A.  
Capella Tower  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402  
Attn: Kevin M. McLain

If to Lender:                       Bridgewater Investment Management, Inc.  
4450 Excelsior Boulevard, Suite 100  
St. Louis Park, Minnesota 55416  
Attn: Nicholas Place

With a copy to:                   Messerli & Kramer P.A.  
1400 Fifth Street Towers  
100 South Fifth Street  
Minneapolis, Minnesota 55402  
Attn: Michelle R. Jester, Esq.

8.4. Offset. Borrower hereby grants to Lender a security interest in all accounts of Borrower with the Lender. Upon the occurrence of an Event of Default, Lender is authorized at any time and from time to time without notice to Borrower or to any other person, any such notice being hereby expressly waived, to set off any and all deposits, and any other indebtedness at any time held or owing by Lender, to or for the credit or the account of Borrower, against the obligations and liabilities of Borrower to Lender under this Agreement and the Note, as applicable.

8.5. No Waivers. No failure or delay on the part of Lender in exercising any right, power or privilege hereunder and no course of dealing between Borrower and Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

8.6. Headings. The headings of various sections of this Agreement have been inserted for reference only and shall not be deemed to be a part of this Agreement.

8.7. Amendment and Waiver. Neither this Agreement nor any provision hereof may be modified, waived, discharged or terminated orally, but only by an instrument in writing

signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

8.8. OFAC Lists. Borrower represents and warrants to Lender that (i) no Related Entity is (and to Borrower's knowledge after diligent inquiry, no other person holding any legal or beneficial interest whatsoever in Borrower, directly or indirectly, is) included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons referred to or described in any list of persons, entities, and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224-Blocking Property and prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended ("**Executive Order 13224**"), or any similar list issued by OFAC or any other department or agency of the United States of America (collectively, the "**OFAC Lists**"), and (ii) none of the Related Entities are controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224, or any other OFAC Lists. "**Related Entity**" shall mean Borrower, Guarantor, or any member of Borrower or Guarantor and any other affiliate of Borrower or Guarantor which directly or indirectly owns any legal or beneficial interest in Borrower.

8.9. Compliance with Anti-Terrorism Regulations.

a) Borrower hereby covenants and agrees that (i) no Related Entity will be included in, owned by, controlled by, act for or on behalf of, provide assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224 or any other OFAC Lists, and (ii) none of the Related Entities will be controlled by, act for or on behalf of, provide assistance, support, sponsorship, or services of any kind to, or otherwise associate with any of the persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224, or any other OFAC lists.

b) Borrower hereby covenants and agrees that it will comply at all times with the requirements of Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Section 1701-06; the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56; the Iraqi Sanctions Act, Pub. L. 101-513, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S. C. Section 287c; the Antiterrorism and Effective Death Penalty Act, (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa-9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Government Sanctions Regulations, 31 C.F.R. Part 596; and the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597 and any similar laws or regulation currently in force or hereafter enacted (collectively, the "**Anti-Terrorism Regulations**").

c) Borrower hereby covenants and agrees that if it becomes aware or receives any notice that any Related Entity is named on any of the OFAC Lists (such

occurrence, an “**OFAC Violation**”), Borrower will immediately (i) give notice to Lender of such OFAC Violation, and (ii) comply with all laws applicable to such OFAC Violation (regardless of whether the party included on any of the OFAC Lists is located within the jurisdiction of the United States of America), including without limitation, the Anti-Terrorism Regulations, and Mortgagor hereby authorizes and consents to Lender’s taking any and all steps Lender deems necessary, in its sole discretion, to comply with all Laws applicable to any such OFAC Violation, including, without limitation, the requirements of the Anti-Terrorism Regulations (including the “freezing” and/or “blocking” of assets).

d) Upon Lender’s request from time to time during the term of the Loan, Borrower agrees to deliver a certification confirming that the representations and warranties set forth in Section 8.8 above remain true and correct as of the date of such certificate and confirming Borrower’s compliance with this Section 8.9.

8.10. Fees. Borrower agrees to pay to Lender as a non-refundable loan origination fee for its services in connection with the Loan the sum of \$202,306.41. Borrower agrees also to pay to Lender upon demand all reasonable out-of-pocket costs incurred by Lender in connection with the Loan transaction contemplated hereby, including all reasonable attorney fees incurred by Lender in connection with this Agreement or the transactions contemplated hereby, appraisal fees, title company fees and other customary charges. If Borrower does not comply with the terms and conditions of this Agreement, the loan or service fees shall not be refunded but shall be considered fully earned by Lender notwithstanding the cancellation of this Agreement, and Borrower shall remain liable to pay and shall pay to Lender the attorney fees referred to in this Section.

8.11. Participations. Lender shall have the right to grant participations in the Loan to one or more other lending institutions, and such participants shall be entitled to the benefits of this Agreement, to the same extent as if they were a direct party hereto; provided, however, that no such participation by any such participant shall in any way affect the obligation of the Lender under the Loan; and provided further that no such participant shall be entitled to receive payment hereunder of any amount greater than the amount which would have been payable had the Lender not granted a participation to such participant.

8.12. Bank Account. Borrower shall be required to maintain its primary deposit account for operation of this Property with the Lender while any portion of the Loan is outstanding. Without notice or demand, Lender shall automatically deduct monthly payments due under the Note from the foregoing deposit account, and Borrower shall be responsible for assuring a sufficient amount is in such account to timely make the payments as due under the Note.

8.13. Loan Servicer. It is hereby acknowledged by the parties that the Loan shall be serviced by BWB. BWB shall service and administer the Loan, in accordance with this Agreement, the applicable Loan Documents, and procedures (including collection procedures) that the Lender customarily employs and exercises in servicing and administering similar loans and which are in accordance with accepted servicing practices of prudent lending institutions, and applicable laws and regulations.

8.14. Environmental Issues. Borrower obtained the Phase I with respect to the Property, which reported certain potential environmental issues at the Property. Borrower, at its sole cost and expense, agrees or agrees to cause third parties to, follow the recommendations of the Minnesota Pollution Control Agency (“MPCA”) with respect to any requirements that are mandated to address the environmental issues. Borrower agrees to copy the Lender on any and all material correspondence to and from the MPCA and any other governmental environmental agency in a timely manner. [Further, when available, Borrower shall deliver to Lender the No Association Determination Letter to be issued by the MPCA.] CONFIRM

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

Executed in St. Louis Park, Minnesota, as of the year and day first above written.

**BORROWER:**

**BUHL GTA, LP,**  
a Minnesota limited partnership

By: Buhl GTA GP, LLC,  
a Minnesota limited liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC,  
a Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC,  
a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic  
Its: Chief Manager

**LENDER:**

**BRIDGEWATER INVESTMENT  
MANAGEMENT, INC.,**  
a Minnesota corporation

By: \_\_\_\_\_

Nicholas Place

Its: Senior Vice President

**EXHIBIT A**  
**PROJECT BUDGET**

**EXHIBIT B**  
**BORROWER'S CERTIFICATE**

\_\_\_\_\_, 2021

Bridgewater Investment Management, Inc.  
4450 Excelsior Boulevard, Suite 100  
St. Louis Park, Minnesota 55416  
Attention: Nicholas Place

Re: Loan Purchase Agreement dated June \_\_, 2021  
with Buhl GTA, LP  
Borrower's Certification regarding Draw Request # \_\_\_\_\_

Dear Mr. Place:

Pursuant to that certain Loan Purchase Agreement dated June \_\_, 2021 by and between Buhl GTA, LP (the "Borrower") and Bridgewater Investment Management, Inc. (the "Lender"), and any amendments thereto and extensions thereof (the "Loan Purchase Agreement"), the Borrower hereby:

A. Repeats and reaffirms to the Lender each and all of the representations and warranties made by Borrower in the Loan Purchase Agreement, and certifies to the Lender that each and all of said warranties and representations are true and correct as of the date hereof; and

B. Represents, warrants and certifies that the Loan under the Loan Purchase Agreement and the Amount Outstanding after this draw are as follows:

- |   |          |
|---|----------|
| 1. Construction Amount  | \$ _____ |
| a. Amount of advance requested for funding<br>Draw # _____ (the current draw) | \$ _____ |
| b. Previous amount advanced to date without<br>current draw                   | \$ _____ |
| c. Amount of Loan (undisbursed after<br>current draw)                         | \$ _____ |

C. Represents, warrants and certifies that the funds remaining undisbursed for the Construction Amount under the Loan Purchase Agreement are sufficient to fully complete the Project in accordance with the Plans and the Project Budget for the Project.

D. Borrower shall attach an updated Project Budget with this Borrower's Certificate showing the following: a) the change, if any, in the line item from the original Project Budget; b) the amount of the current draw for each line item; c) the amount drawn to date, including the



current draw request, for each line item; and d) the amount remaining to be drawn for each line item.

**BUHL GTA, LP,**  
a Minnesota limited partnership

By: Buhl GTA GP, LLC,  
a Minnesota limited liability company  
Its: General Partner

By: Buhl Value Fund II Manager, LLC,  
a Delaware limited liability company  
Its: Manager

By: Buhl Investors, LLC,  
a Minnesota limited liability company  
Its: Manager

By: \_\_\_\_\_  
Peter Deanovic  
Its: Chief Manager

Extract of Minutes of a Meeting of the  
City Council of the  
City of Falcon Heights, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Falcon Heights, Minnesota, was duly held at the City Hall, or by electronic means as permitted by law, in said City on Wednesday, the 12<sup>th</sup> day of May, 2021, at 7:00 p.m.

The following members were present:

and the following were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION NO. 21-19**

**APPROVING ISSUANCE AND SALE OF  
MULTIFAMILY HOUSING REVENUE REFUNDING NOTE  
(AMBER UNION PROJECT), SERIES 2021  
PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C**

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

**RESOLUTION NO. 21-19**

**APPROVING ISSUANCE AND SALE OF  
MULTIFAMILY HOUSING REVENUE REFUNDING NOTE  
(AMBER UNION PROJECT), SERIES 2021  
PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C**

WHEREAS,

A. The City of Falcon Heights, Minnesota (the "Issuer") is authorized pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), to finance or refinance the making or purchasing of loans with respect to multifamily housing developments within the boundaries of the City of Falcon Heights, Minnesota (the "City") through the issuance of revenue obligations; and

B. Pursuant to the Act, the full faith and credit of the Issuer will not be pledged to the payment of the principal of, premium, if any, and interest on the Notes (as defined below); and

C. The Issuer has received a proposal from Buhl GTA, LP, a Minnesota limited partnership (the "Borrower"), that the Issuer undertake a program to finance and refinance the Project hereinafter described through the issuance of its revenue obligations in the aggregate principal amount not to exceed \$28,000,000 to finance and refinance the acquisition and rehabilitation of an approximately 125-unit multifamily housing facility and related facilities for low- and moderate-income households, located at 1667 Snelling Avenue, in the City (the "Project"). The Project will be owned and operated by the Borrower; and

D. A public hearing on the Project and the housing finance program was previously held on November 13, 2019, after notice was published in the official newspaper of the Issuer not less than 15 days in advance of said public hearing, and materials were made available for public inspection at the City Hall, all as required by the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), at which public hearing all those appearing who desired to speak were heard and written comments were accepted and, following the public hearing, the housing finance program was approved that same date; and

E. Pursuant to Section 462C.04 of the Act, the Issuer made timely submission of the housing finance program to the Metropolitan Council for its review and comment, and the Issuer received favorable comment from the Metropolitan Council on such program; and

F. The City has previously issued its \$3,622,377 Multifamily Housing Revenue Note, Series 2019 (Amber Union Apartments Project) (the "Prior Note") with respect to the Project; and

G. No public official of the Issuer has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Falcon Heights, Minnesota as follows:

1. The Borrower has proposed that the Issuer issue and sell its Multifamily Housing Revenue Refunding Notes (Amber Union Project), Series 2021 (the "Note") in an amount not to exceed \$28,000,000 to finance the costs of the Project, including the refunding of the Prior Notes, in accordance with this Resolution and a Loan Agreement (the "Loan Agreement") between the Issuer and the Borrower, which will be assigned to Bridgewater Investment Management, Inc., a Minnesota corporation (the "Lender") pursuant to an Assignment of Loan Agreement (the "Loan Agreement Assignment").

2. Pursuant to the terms of the Loan Agreement, anticipated to be dated as of a date in June, 2021, the Issuer will loan the proceeds of the Notes (the "Mortgage Loan") to the Borrower to refund the Prior Note and finance the Project. The Borrower has agreed, pursuant to an Amended and Restated Regulatory Agreement anticipated to be dated as of a date in June, 2021, by and between the Issuer, the Borrower, and the Lender (the "Regulatory Agreement"), to operate the Project as a "residential rental project" under Section 142(d) of the Internal Revenue Code of 1986, as amended.

3. The Borrower and related parties will provide collateral and guaranties to secure the Note.

4. The Note will be purchased pursuant to the terms and conditions of a Loan Purchase Agreement between the Lender and the Borrower (the "Loan Purchase Agreement").

5. Forms of the following documents have been submitted to the City Council:

- (a) Loan Agreement;
- (b) Loan Agreement Assignment;
- (c) Regulatory Agreement;
- (d) Note; and
- (e) Loan Purchase Agreement

The documents listed in (a) through (e) are hereafter referred to as the "Loan Documents."

6. It is hereby found, determined, and declared that:

(a) the issuance and sale of the Note, the execution and delivery by the Issuer of the Loan Documents and the performance of all covenants and agreements of the Issuer contained in the Loan Documents and of all other acts and things required under the constitution

and laws of the State of Minnesota to make the Loan Documents and the Note valid and binding obligations of the Issuer in accordance with their terms, are authorized by the Act;

(b) it is desirable that the Note be issued by the Issuer upon the terms set forth in this Resolution and the Loan Purchase Agreement;

(c) the basic payments under the Loan Agreement are fixed to produce revenue sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Notes issued hereunder when due, and the Loan Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the Project premises and payable during the term of the Loan Agreement;

(d) under the provisions of Minnesota Statutes, Chapter 462C and as provided in the Loan Agreement, the Note is not to be payable from or charged upon any funds other than the revenue pledged to the payment thereof; the Issuer is not subject to any liability thereon; no holder of the Note shall ever have the right to compel any exercise by the Issuer of its taxing powers to pay the Note or the interest or premiums thereon, or to enforce payment thereof against any property of the Issuer except the interests of the Issuer in the Loan Agreement which have been assigned to the Lender under the Loan Agreement Assignment; the Note shall not constitute a charge, lien, or encumbrance, legal or equitable upon any property of the Issuer except the interests of the Issuer in the Loan Agreement which have been assigned to the Lender under the Loan Agreement Assignment; the Note shall recite that the Note is issued without moral obligation on the part of the state or its political subdivisions, and that the Notes, including interest thereon, is payable solely from the revenues pledged to the payment thereof; and, the Note shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

7. (a) The Issuer will cause to be kept at the office of the City Administrator a Note Register in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of transfers of ownership of the Note. The Note shall be initially registered in the name of the Lender and shall be transferable upon the Note Register by the Lender in person or by its agent duly authorized in writing, upon surrender of the Note together with a written instrument of transfer satisfactory to the City Administrator, duly executed by the Lender or its duly authorized agent. The following form of assignment shall be sufficient for said purpose.

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note of the City of Falcon Heights, Minnesota, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer said Note on the books of said Issuer with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Section 7(d) of the Resolution authorizing the issuance of the Note.

Dated: \_\_\_\_\_

\_\_\_\_\_

## Registered Owner

Upon such transfer the City Administrator shall note the date of registration and the name and address of the new Lender in the applicable Note Register and in the registration blank appearing on the Note.

(b) In case a Note issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed and delivered, a new Note of like outstanding principal amount, number and tenor in exchange and substitution for and upon cancellation of such mutilated Note, or in lieu of and in substitution for such Note destroyed or lost, upon the Lender's paying the reasonable expenses and charges of the Issuer in connection therewith, and in the case of a Note destroyed or lost, the filing with the Issuer of evidence satisfactory to the Issuer with indemnity satisfactory to it. If the mutilated, destroyed or lost Note has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Note prior to payment.

(c) The Issuer may deem and treat the person in whose name a Note is last registered in the Note Register and by notation on the Note whether or not such Note shall be overdue, as the absolute owner of such Note for the purpose of receiving payment of or on account of the Principal Balance, redemption price or interest and for all other purposes whatsoever, and the Issuer shall not be affected by any notice to the contrary.

(d) The Note will be issued to either (a) a "qualified institutional buyer" as defined in Rule 144A promulgated under the 1933 Act, that purchases it for its own account or for the account of a qualified institutional buyer, or (b) an "accredited investor" as defined in Regulation D promulgated under the 1933 Act, that purchases for its own account and without registration under state or other securities laws, pursuant to an exemption for such issuance; and accordingly the Note may not be assigned or transferred in whole or in part, nor may a participation interest in the Note be given pursuant to any participation agreement, except to another "qualified institutional buyer" or "accredited investor" in accordance with an applicable exemption from such registration requirements and with full and accurate disclosure of all material facts to the prospective purchaser(s) or transferee(s) and in a single denomination equal to the entire outstanding principal balance thereof and in accordance with Section 7(a) hereof.

(e) Subject to the provisions of Section 7(d), the Issuer shall, at the request and expense of the Lender, issue a new Note, in aggregate outstanding principal amount equal to that of the Note surrendered, and of like tenor except as to number, principal amount, and the amount of the periodic installments payable thereunder, and registered in the name of the Lender or such transferee as may be designated by the Lender.

8. The forms of the Loan Documents and exhibits thereto are approved substantially in the form submitted. The Loan Documents, in substantially the forms submitted, are directed to be executed in the name and on behalf of the Issuer by the Mayor and City Administrator. Any other documents and certificates necessary to the transaction described above shall be executed by the appropriate Issuer officers. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed, and recorded as provided herein and in the Loan Documents.

9. The Issuer shall proceed forthwith to issue the Note, in the form and upon the terms set forth in the Loan Purchase Agreement and at a variable rate. The Note will be purchased on substantially the terms set forth in the Loan Purchase Agreement, this Resolution, and the Loan Agreement which have been submitted to the Issuer in connection with this Resolution. The Mayor and City Administrator are authorized and directed to prepare and execute the Notes as prescribed herein and to deliver it to the Lender.

10. The Mayor and City Administrator and other officers of the Issuer are authorized and directed to prepare and furnish to the Lender certified copies of all proceedings and records of the Issuer relating to the Note, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Note as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained herein.

11. The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the City Attorney and the Issuer officials authorized herein to execute said documents prior to their execution; and said Issuer officials are hereby authorized to approve said changes on behalf of the Issuer. The execution of any instrument by the appropriate official or officials herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

12. The approval hereby given to the Loan Documents and the various other documents referred to in paragraph 8 above includes approval of (a) such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by Bond Counsel, the City Attorney and the Issuer officials authorized herein to execute said documents prior to their execution and (b) such additional documents, agreements or certificates as may be necessary and appropriate in connection with the Loan Documents and with the issuance and sale of the Note and approved by Bond Counsel, the City Attorney and Issuer officials authorized herein to execute said documents prior to their execution; and said City Attorney and Issuer officials are hereby authorized to approve said changes or additional documents, agreements or certificates on behalf of the Issuer. The execution of any instrument by the appropriate officer or officers of the Issuer herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms thereof and hereof. In the absence (or inability) of the Mayor or the City Administrator, any of the documents authorized by this resolution to be executed by them may be executed by the Acting Mayor or the Acting City Administrator.

Adopted by the City Council of the City of Falcon Heights, Minnesota this 12th day of May, 2021.

-----

Moved by:

Approved by: \_\_\_\_\_  
Randall C. Gustafson  
Mayor

GUSTAFSON  
MIAZGA  
ANDREWS  
LEEHY  
WEHYEE

\_\_\_\_\_ In Favor  
\_\_\_\_\_ Against

Attested by: \_\_\_\_\_  
Sack Thongvanh  
City Administrator



STATE OF MINNESOTA    )  
  )  
COUNTY OF RAMSEY    )

I, the undersigned, being the duly qualified and acting City Administrator of the City of Falcon Heights, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City duly called and held on the date therein indicated, insofar as such minutes relate to giving approval on a proposed multifamily housing revenue note issue.

WITNESS my hand this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
City Administrator

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Policy G2
<b>Attachment</b>	See Below
<b>Submitted By</b>	Sack Thongvanh, City Administrator

<b>Item</b>	Amber Union - Tax Increment Financing
<b>Description</b>	Please see memorandum from Catherine Courtney of Taft Stettinius & Hollister, LLP.
<b>Budget Impact</b>	N/A
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• Memorandum from Catherine Courtney of Taft Stettinius &amp; Hollister, LLP</li> <li>• Resolution 21-20 Approving the Collateral Assignment of Development Agreement and Tax Increment Revenue Note for Amber Union Project</li> <li>• Assignment of Payments Under Tax Increment Revenue Note for Amber Union Project</li> </ul>
<b>Action(s) Requested</b>	Motion to approve attached resolution and authorize the Mayor and City Administrator to execute all documents and agreements attached.

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2200 IDS Center, 80 South 8th Street  
Minneapolis, MN 55402  
Tel: 612.977.8400 | Fax: 612.977.8550  
taftlaw.com

Affirmative Action, Equal Opportunity Employer

Catherine J. Courtney  
612.977.8765  
CCourtney@Taftlaw.com

May 6, 2021

**BY E-MAIL**

Sack Thongvanh  
City Administrator  
City of Falcon Heights  
2077 Larpenteur Ave. W  
Falcon Heights, MN 55113-5551

**Re: City of Falcon Heights – Amber Union Multifamily Affordable Housing  
Project: Conduit Revenue Bonds and Tax Increment Financing**

Dear Mr. Thongvanh:

As the City of Falcon Heights (the "City" or "Issuer") is aware, Buhl GTA, LP, a Minnesota limited partnership (the "Borrower"), with Buhl GTA GP, LLC, a Minnesota limited liability company, as the general partner, is acquiring and renovating an existing historic office building into an approximately 128-unit multifamily housing facility, to be known as Amber Union Apartments, for low- and moderate-income individuals and families to be located at 1667 Snelling Avenue, which is on the southwest corner of Snelling Avenue and Larpenteur Avenue, in the City (the "Project").

The Borrower first sought assistance from the City with the financing of the Project a couple of years ago. Specifically, the Borrower requested that the City act as the issuer of multifamily housing development bonds (the "Bonds"). State and federal laws allow local government units to enter into arrangements to issue bonds and loan the proceeds to private developers to finance or refinance affordable housing projects. This assistance reduces borrowing costs for such borrowers and enables them to provide affordable housing for the residents of the City more cost effectively. It is a fairly common means of obtaining necessary financing for such projects. Oftentimes such projects will also take advantage of low-income housing tax credits, which is anticipated with this Project.

To accomplish this purpose, the Issuer will enter into a Loan Agreement with the Borrower under which the Borrower will agree to pay all principal and interest on the Bonds. The Issuer will assign all of its rights to payments under the Loan Agreement to a lender or trustee and loan

the purchase price of the Bonds directly to the Borrower. The Issuer is merely a conduit and the money and obligations flow only between the lender or trustee and the Borrower.

The Bonds and the resolutions adopted by the Issuer will recite that the Bonds, if and when issued, will not be payable from or charged upon any of the Issuer's funds, other than the revenues received under the Loan Agreement and pledged to the payment of the Bonds, and the Issuer is not subject to any liability on the Bonds. No holder of the Bonds will ever have the right to compel any exercise by the Issuer of its taxing powers to pay any of the principal of the Bonds or the interest or premium thereon, or to enforce payment of the Bonds against any property of the Issuer except the interests of the Issuer in payments to be made by the Borrower under the Loan Agreement. The Bonds will not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer, except the interests of the Issuer in payments to be made by the Borrower under the Loan Agreement. The Bonds are not moral obligations on the part of the State or its political subdivisions, including the Issuer, and the Bonds will not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

The issuance of the Bonds will not affect the Issuer's credit rating on bonds it issues for municipal purposes.

Unlike the 501(c)(3) bonds that the City is familiar with, multifamily housing development bonds are not applied against the City's \$10,000,000 calendar year-limit on bank-qualified bonds. Therefore, the City may issue the Bonds, while still maintaining its ability to issue up to \$10,000,000 of bank-qualified bonds for itself or 501(c)(3) organizations. The City's one-time issuer administration fee of  $\frac{1}{4}$  of 1% would be calculated based on the principal amount of the Bonds actually issued.

The Bonds will be issued in accordance with Minnesota Statutes, Chapter 462C. The City Council has approved multiple times the submission of applications for volume cap allocation for this Project. These applications have been made to Minnesota Management and Budget ("MMB"). You may recall that in 2019, a partial allocation of \$3,622,377 (out of the \$40,000,000 requested) was received, but it was insufficient for the Project to move forward. Temporary bonds were issued in 2019 for that smaller amount. The most recent application, submitted in January of this year, received an allocation of \$23,351,811. The Bonds proposed to be issued will provide for both the refunding of the 2019 bonds and the larger allocation received in 2021.

The next step in the issuance of the Bonds is to adopt a resolution authorizing the issuance of the Bonds, which has been provided to the City by Taft law firm (formerly Briggs and Morgan), the City's Bond Counsel. No public hearing is required, as that was held in 2019.

In addition to the Bonds, the Borrower also requested the City to provide Tax Increment Financing for the Project. State law allows local units of government to create districts, in which a certain amount of tax revenue can be captured to support the financing of projects that couldn't otherwise be accomplished without such assistance. Over the past couple of months, the City has

May 6, 2021

Page 3

worked to establish Tax Increment Financing District No. 1-4, which is categorized as a housing district under Minnesota Statutes, Section 469.174, subd. 11. In consultation with Ehlers, the City's municipal advisor, the projected tax increment that will be used to reimburse the Borrower for the costs of the Project is in an amount not to exceed \$1,565,037. This amount will be paid over time, on a semi-annual basis, in amounts based on the portion of taxes received by the City from the County for the prior six-month period, pursuant to the Development Agreement between the City and Borrower.

As is typical of complex transactions financing affordable housing projects, such as this, the purchasers of the Bonds are requiring the tax increment payments to be assigned to purchasers. This means that the City will make the semi-annual payments discussed above directly to the purchasers, pursuant to the Assignment of Payments Under Tax Increment Revenue Note, which has been included in your council packet, along with a resolution that approves the assignment and authorizes the execution of the City's consent therefor, for consideration at the May 12<sup>th</sup> City Council meeting.

Please feel free to contact me if you have any further questions or comments.

Sincerely,

Taft Stettinius & Hollister LLP

  
Catherine J. Courtney

**ASSIGNMENT OF PAYMENTS UNDER  
TAX INCREMENT REVENUE NOTE**

THIS ASSIGNMENT OF PAYMENTS UNDER TAX INCREMENT REVENUE NOTE (“**Assignment**”) is made as of the [\_\_\_\_] day of [\_\_\_\_], 2021, by and between BUHL GTA, LP, a Minnesota limited partnership (the “**Developer**”), and COLLIERS MORTGAGE LLC, a Delaware limited liability company (the “**Lender**”).

**RECITALS**

The Developer and the City of Falcon Heights, Minnesota (the “**City**”) are parties to that certain Development Agreement, dated [\_\_\_\_], 2021 (the “**Development Agreement**”). The Lender intends to make a mortgage loan in the approximate original principal amount of \$[\_\_\_\_] (the “**FHA Insured Mortgage Loan**”) to the Developer pursuant to (i) a commitment dated [\_\_\_\_], 2021 for insurance of advances issued by the Federal Housing Commissioner of the United States Department of Housing and Urban Development (“**HUD**”) with respect to the Project (hereinafter defined) (the “**FHA Insurance Commitment**”); (ii) a Note from the Developer to Lender in the amount of the FHA Insured Mortgage Loan (the “**FHA Note**”); (iii) that certain first-lien priority Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement (Minnesota) between Developer and Lender (the “**FHA Mortgage**”); and (iv) a Regulatory Agreement for Multifamily Projects, between the Developer and HUD, related to the FHA Insured Mortgage Loan (the “**HUD Regulatory Agreement**”), all to be dated as of [\_\_\_\_], 2021, except as indicated above. The FHA Insurance Commitment, the FHA Note, the FHA Mortgage, and the HUD Regulatory Agreement, along with any and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the FHA Note, are hereinafter collectively referred to as the “**FHA Loan Documents.**” The Developer intends to use the proceeds of the FHA Insured Mortgage Loan to construct the “**Project**” as defined in the Development Agreement. Pursuant to the Development Agreement, Developer has agreed to construct the Project and the City has agreed to issue its \$[1,565,037].00 Tax Increment Revenue Note (Buhl GTA, LP Project) (the “**TIF Note**”), on the date that certain conditions set forth in Section 3.3 of the Development Agreement are satisfied (the “**Issuance Date**”), to provide funds to reimburse the Developer for certain costs of the Project. As a condition of the Loan, Lender has required that the Developer collaterally assign to the Lender the Developer’s rights under the TIF Note.

Unless otherwise defined herein, terms are used herein with the same meanings as defined in the FHA Loan Documents. In the event of any conflict between the terms hereof and the FHA Loan Documents, the terms and conditions of the FHA Loan Documents shall control. As a condition to the FHA Insured Mortgage Loan, Lender has required Developer to cause the execution and delivery of this Assignment.

**NOW, THEREFORE**, in consideration of the FHA Insured Mortgage Loan and intending to be legally bound, Developer does hereby covenant, agree, warrant, represent, assign, set over and transfer, to the extent assignable and transferable, as set forth herein:



1. On the Issuance Date, Developer shall deliver a fully executed copy of the TIF Note to Lender.

2. Developer hereby pledges and grants Lender a security interest in the TIF Note, and hereby assigns, transfers and sets over unto Lender all of its current and future right, title and interest in and to the payments under the TIF Note and all rights and benefits therefrom, as security for the full, timely and faithful repayment by Developer of the FHA Insured Mortgage Loan, and performance by Developer of its obligations under the FHA Loan Documents. Developer hereby agrees to execute such additional documentation as required by Lender in order to give full force and effect to such assignment to Lender of the TIF Note.

3. The Developer hereby acknowledges and agrees that all payments made by the City under the TIF Note shall be paid for the benefit of the Developer directly to Lender, by the City sending payments to Lender at the address as provided in Section 13. The Developer hereby irrevocably directs and authorizes the City to pay for the benefit of the Developer directly and exclusively to the Lender or its assigns all sums due under the Development Agreement or the TIF Note, subject to the terms thereof, and Developer hereby irrevocably authorizes and directs the City to recognize the claims of the Lender without investigating the reason for any action taken or the validity of or the amount of indebtedness owing to the Lender or the existence of any Event of Default; and to the extent such sums are paid to the Lender, the Developer agrees that the City shall have no further liability to the Developer for the same. The sole receipt by the Lender of any sum paid by the City shall be in discharge and release of that portion of any amount owed by the City. *The Lender acknowledges that the City's rights and remedies against the Developer under the Development Agreement are unaffected by this Assignment.*

4. Developer agrees to faithfully observe and perform all of the obligations and agreements pursuant to the Development Agreement for the issuance of the TIF Note and the terms and conditions of the TIF Note.

5. Lender will not be deemed in any manner to have assumed any of the obligations related to the Development Agreement or TIF Note, nor shall Lender be liable to the City by reason of any default by any party under the Development Agreement or TIF Note. Developer agrees to indemnify and to hold Lender harmless of and from any and all liability, loss or damage which it may or might incur by reason of any claims or demands against it based on its alleged assumption of Developer's duty and obligation to perform and discharge the terms, covenants and agreements in the Development Agreement or the TIF Note.

6. After the occurrence of an Event of Default (as defined and set forth in the FHA Loan Documents), subject to applicable grace or cure periods:

a. Lender may elect to exercise any and all of Developer's rights and remedies under the TIF Note, without any interference or objection from Developer, and Developer shall cooperate in causing the City to comply with all the terms and conditions of the TIF Note;

b. Lender may exercise Developer's rights under the TIF Note, and perform all acts in the same manner and to the same extent as Developer might do. In connection with any and all of the foregoing powers, and without limiting the same, Lender may amend the terms of the TIF Note (with the consent of the City), and make concessions to the City;

c. Lender may exercise Developer's rights under the provisions of the Development Agreement and perform all acts in the same manner and to the same extent as Developer might do, solely as they relate to obtaining the issuance of the TIF Note by the City;

d. Lender may exercise any remedies provided to it in the FHA Loan Documents.

7. All of the foregoing powers herein granted to Lender shall be liberally construed against the Developer. *Lender acknowledges that the City's rights and remedies against the Developer under the Development Agreement are unaffected by this Assignment.* Lender need not expend its own funds in the exercise of such power, but if it does, such amounts shall be considered as advances for and on behalf of Developer secured by this Assignment and also secured by the FHA Loan Documents. Any amounts so advanced shall bear interest at the then current rate prescribed in the FHA Note.

8. Nothing herein contained shall be construed as constituting a waiver of suspension by Lender of its right to enforce payment of the debts under the terms of the FHA Loan Documents. Lender is not the agent, partner or joint venturer of the Developer or the City.

9. This Assignment may be enforced from time to time by Lender at its discretion, with or without order of any court, as Lender shall determine. Lender may also, at any time, cease to enforce this Assignment. Any failure on the part of the Lender promptly to exercise any option hereby given or reserved shall not prevent the exercise of any such option at any time thereafter. Lender may pursue and enforce any remedy or remedies accorded it herein independently of, in conjunction or concurrently with, or subsequent to its pursuit and enforcement of any remedy or remedies which it may have under the FHA Loan Documents.

10. Developer warrants and represents that:

a. It has the right to exercise and deliver this Assignment under the terms of the Development Agreement and TIF Note. The execution of this Assignment and performance and observance of its terms hereof have been duly authorized by necessary company action and do not contravene or violate any provision of Developer's organizational documents.

b. It has made no prior assignments of the TIF Note.

c. To Developer's knowledge, as of the date hereof the Development Agreement is in full force and effect and the TIF Note shall be in full force and effect on the Issuance Date, subject to no defenses, setoffs or counterclaims whatsoever.

d. To Developer's knowledge, there exists no event, condition or occurrence which constitutes, or which with notice and/or the passage of time would constitute, a breach of or default under any terms or conditions of any of the Development Agreement or TIF Note. Developer also hereby covenants and agrees not to do any act which would destroy or impair the security to Lender of this Assignment.

e. Developer has filed all tax returns required to be filed and either paid all taxes shown thereon to be due, including interest and penalties, which are not being contested in good faith and by appropriate proceedings, and Developer has no knowledge of any objections or claims for additional taxes in respect to federal tax or excise profit tax returns for prior years.

11. When the context so requires, the singular shall include the plural and conversely, and use of any gender shall include all genders.

12. This Assignment shall be governed by and be construed in accordance with the laws of the State of Minnesota. Whenever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment shall be prohibited by or be invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Assignment.

13. Notices required hereunder shall be by registered or certified mail or hand delivered, addressed as follows:

If to Developer at:           Buhl GTA, LP  
5100 Eden Avenue  
Suite 317  
Edina, Minnesota 55436  
Attention: Peter Deanovic

With a copy to:           Winthrop & Weinstine, P.A.  
Capella Tower  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402-4629  
Attn: Kevin M. McLain, Esq.

If to Lender at:           Colliers Mortgage LLC  
90 South Seventh Street  
Suite 4300  
Minneapolis, Minnesota 55402  
Attn: [\_\_\_\_\_]

With a copy to:           Ballard Spahr LLP  
1909 K Street, N.W., 12<sup>th</sup> Floor  
Washington, D.C. 20006  
Attn: Rania Samir Galan, Esq.

or to such other address specified in writing by one party to the other in accordance herewith.

**IN WITNESS WHEREOF**, Developer has caused this Assignment to be executed as of the day and year first above written.

**BUHL GTA, LP,**  
a Minnesota limited partnership

By: Buhl GTA GP, LLC, a Minnesota limited liability company  
Its: General Partner

By: \_\_\_\_\_  
Peter Deanovic, its Chief Executive Officer

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Peter Deanovic, the Chief Executive Officer of Buhl GTA GP, LLC, a Minnesota limited liability company, the general partner of Buhl GTA, LP, a Minnesota limited partnership, on behalf of the limited partnership.

\_\_\_\_\_  
Notary Public

**CONSENT TO ASSIGNMENT OF PAYMENTS UNDER  
TAX INCREMENT REVENUE NOTE**

To induce Lender to make advances pursuant to the FHA Loan Documents described in the foregoing Assignment, the undersigned City hereby acknowledges and consents to the foregoing Assignment to Lender, and further agrees to deliver to Lender a copy of any Default Notice given to Developer with respect to any breach or default by Developer under the Development Agreement or the TIF Note within five (5) days of delivering any such notice to Developer. The City consents to such Assignment in accordance with the Development Agreement and the TIF Note.

Until further notified, the City shall make all payments under the TIF Note to Colliers Mortgage LLC at the following address:

Colliers Mortgage LLC  
90 South Seventh Street  
Suite 4300  
Minneapolis, Minnesota 55402  
Attn: [\_\_\_\_\_]



EXTRACT OF MINUTES OF A MEETING  
OF THE CITY COUNCIL OF THE  
CITY OF FALCON HEIGHTS, MINNESOTA

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Falcon Heights, Minnesota, was duly held at the City Hall in said City on May 12, 2021, at 7:00 P.M.

The following members were present:

and the following were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION NO. 21-20**

**RESOLUTION APPROVING THE COLLATERAL ASSIGNMENT OF  
DEVELOPMENT AGREEMENT AND TAX INCREMENT REVENUE  
NOTE FOR AMBER UNION PROJECT (BUHL GTA, LP)**

A. WHEREAS, the City of Falcon Heights (the "City") and Buhl GTA, LP (the "Developer") will enter into a Development Agreement (the "Development Agreement") in connection with the construction of an approximately 125-unit multifamily rental housing facility (the "Project"); and

B. WHEREAS, the City will issue a Tax Increment Revenue Note (Buhl GTA, LP Project) pursuant to the Development Agreement that will be payable to the Developer (the "TIF Note"); and

C. WHEREAS, the Developer is seeking to finance the Project with Colliers Mortgage LLC (the "Lender"), and the Lender is requiring the execution of an Assignment of Payments Under Tax Increment Revenue Note (the "Collateral Assignment"); and

D. WHEREAS, a draft of the Collateral Assignment has been submitted to the City Council for approval:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Falcon Heights, Minnesota, as follows:

1. The City Council hereby approves the Collateral Assignment in substantially the form submitted, and the Mayor and the City Administrator are hereby authorized and directed to execute the Collateral Assignment on behalf of the City. In the absence of the Mayor or the City Administrator, any document authorized by this resolution to be executed may be executed by an acting or duly designated official.

2. The approval hereby given to the Collateral Assignment includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by

the City officials authorized by this resolution to execute the Collateral Assignment. The execution of the Collateral Assignment by the appropriate officer or officers of the City shall be conclusive evidence of the approval of the Collateral Assignment in accordance with the terms hereof.

The motion for the adoption of the foregoing resolution was duly seconded by member \_\_\_\_\_, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Adopted this 12<sup>th</sup> day of May, 2021.

-----

Moved by:

Approved by: \_\_\_\_\_  
Randall C. Gustafson  
Mayor

GUSTAFSON  
MIAZGA  
ANDREWS  
LEEHY  
WEHYEE

\_\_\_\_\_ In Favor  
\_\_\_\_\_ Against

Attested by: \_\_\_\_\_  
Sack Thongvanh  
City Administrator



STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF FALCON HEIGHTS

I, the undersigned, being the duly qualified and acting City Administrator of the City of Falcon Heights, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City duly held on the date therein indicated, insofar as such minutes relate to a resolution giving approval to the Collateral Assignment, and authorizing the execution therefor.

WITNESS my hand this \_\_\_\_ day of May, 2021.

---

City Administrator

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## REQUEST FOR COUNCIL ACTION

<b>Meeting Date</b>	May 12, 2021
<b>Agenda Item</b>	Policy G3
<b>Attachment</b>	Petition, Resolution
<b>Submitted By</b>	Stephanie Smith, Asst. City Engineer

<b>Item</b>	Order Feasibility Report & Set Public Hearing for Alley Improvements
<b>Description</b>	<p>At the May 5, 2021 Council workshop, the City has received a petition from 12 properties and 1 set of renters adjacent to the Idaho/Iowa alleyway between Pascal St. and Arona St. This represents 52% of the adjacent properties. Only 30% of adjacent properties are required for the petition to be valid. The petition requests the City address problematic drainage on the alleyway, specifically where it intersects Pascal Street.</p> <p>Staff surveyed the area that holds water. In order to address the drainage issue, staff would propose regrading a portion of the alleyway, lowering the existing catch basin and repaving the alleyway. A concept-level estimate of the cost would be \$20,000 - \$30,000.</p> <p>If the Council were to pursue a project to address this concern, a draft schedule is shown below:</p> <ul style="list-style-type: none"> <li>• May 12 – Order Feasibility Report, Set Improvement Hearing</li> <li>• May 26 – Accept Feasibility Report, Order Plans and Spec</li> <li>• June 9 – Improvement Hearing, Approve Plans and Spec, Approve CO</li> <li>• June-August – Construction</li> <li>• Fall – Assessment Hearing</li> </ul> <p>This schedule may allow construction this year as part of the 2021 Pavement Management Project that is soon to begin.</p> <p>A resolution ordering the preparation of the feasibility report and setting a public hearing date is attached. A portion of the street projects are proposed to be assessed. The approval of the attached resolution is required for the Minnesota Chapter 429 Assessment Process.</p>
<b>Budget Impact</b>	The City’s Assessment Policy states that property owners are responsible for 90% of the costs for alleyway improvements. The assessment policy would have the amount split among the 23 adjacent properties based on the length of their frontage to the alleyway, for an estimated \$750-\$2,250/property.

	The City would fund the remaining 10% of the cost with the Street Fund, at an estimate of \$2,000-\$3,000.
<b>Attachment(s)</b>	<ul style="list-style-type: none"> <li>• Petition</li> <li>• Resolution 21 - 21 Order Feasibility Report and Ordering Public Hearing for Alley Improvement</li> </ul>
<b>Action(s) Requested</b>	Staff would recommend approve in the attached resolution ordering the preparation of the feasibility report and setting a public hearing date.

Hello Friends,

This is a list of residents that have expressed an interest in getting the drainage of the alley and street corrected.

- 1) Bill Mosier 1464 Idaho Ave W
- 2) Josh and Elizabeth Penrod 1468 Idaho Ave w
- 3) Ginny and Craig Allen 1490 Idaho Ave W
- 4) Liz Snyder and Josh Fisher 1508 Idaho Ave W
- 5) Abbey Carlson 1502 Idaho Ave W
- 6) Richard Krueger and Mary Anne Casey 1494 Idaho Ave W
- 7) Kent McCoy 1463 Idaho Ave W
- 8) Sharon Auerbach and Joseph Milton Gilpin
- 9) Thomas Miller 1485 Iowa Ave W
- 10) Paul and Sharon Eberhard 1497 Iowa Ave W
- 11) Walter Dunlap 1503 Iowa Ave W
- 12) Kurt Johnson and Lily Tharoor 1507 Iowa Ave W
- 13) CONNIE THOMPSON 1482 IDAHO AVE W.

Bill Mosier

Owner

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

After tiring of chopping ice to get the street and alley to drain, I thought it was time for someone to make a complaint to the city. I sent pictures to the Public Works Dept and the City Engineer. They have acknowledged that there is a problem with the area I have described. They have actually come out and shot elevations on the street (Pascal) and the east end of the alley. I was told to get a petition together and present it to the city for consideration. This is the reason for this letter. I'm asking for all of us to get behind this effort. Now, here's the kicker. I was also told that the city will take any responsibility for corrections to the street but the residents are 90% responsible for any corrections to the alley. That means we all take a bit of a hit, but after I witnessed a lady walking her dog this spring, fall flat on her back after slipping on the ice that had built up 10 feet out into the street, I thought it was time to act. I believe that the 90% responsibility will be negotiable. If you wish to join me in the effort to get these problems corrected please state your address and phone number then sign this letter and return it to me.

I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Bill Mosier

Address here: 1464 IDAHO AVE W.

Sign here: 

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Elizabeth + Josh Penrod

Address here: 1468 Idaho Ave W.

Sign here: Elizabeth B Penrod

Thanks for taking this on. Bless! We're happy to help however we can!

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Ginny and Craig Allen

Address here: 1490 Idaho Ave W, Falcon Hd 55108

Sign here: 

Thanks, Bill, for taking on this project!



**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: UZ SNYDER & JOSH FISHER

Address here: 1509 IDAHO AVE. W.

THANKS FOR  
COORDINATING!

Sign here: 

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Abbey Carlson

Address here: 1502 Idaho Ave

Sign here: Abbey Carlson

\* Please let my husband (Ryan) & Me know if there is anything we can do to help advocate

**Street and alley correction**

Hello neighbors,

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here:

Richard Krueger

*Mary Anne Casey*

Address here:

1494 Idaho Ave W

Sign here:

Richard Krueger

Richard A. Krueger  
Mary Anne Casey  
1494 Idaho Ave W.  
Falcon Heights, MN  
55108

**Memorandum**

TO: Bill Mosier and City of Falcon Heights

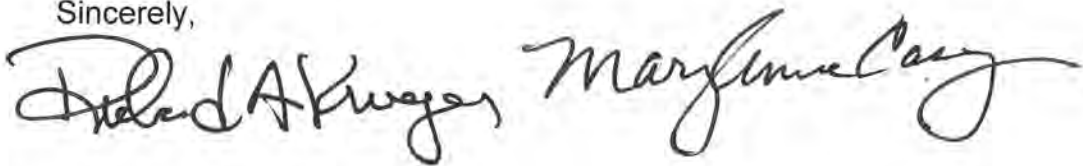
RE: Alley problems

We fully support our neighbor Bill Mosier and other neighbors as they seek to correct the drainage problems in the alley between Idaho and Iowa.

We've lived at 1494 Idaho for 28 years. We remember that when we moved in there was NOT a drainage problem. It only occurred after the resurfacing of the alley sometime after 2000. We agree that the residents should pay a portion of the reconstruction, but not at the 90% level. We feel the cost ought to be shared between residents and the City. The City approved the construction of the last rebuilding and it proved to be inadequate. This then ought not to be the primary problem of the homeowner. The City needs to take responsibility beyond the 10% proposed.

Thank you Bill Mosier for moving us forward.

Sincerely,

Handwritten signatures of Richard A. Krueger and Mary Anne Casey.

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

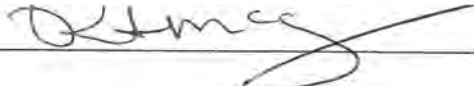
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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Kent McCoy

Address here: 1463 Iowa Ave W

Sign here: 



**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas,

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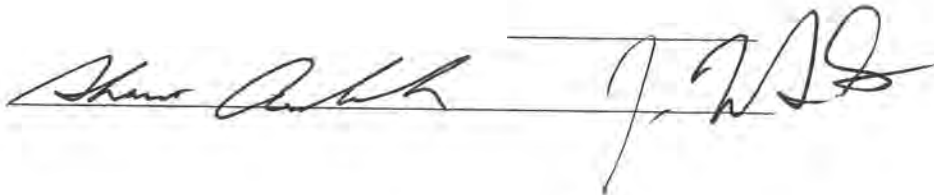
I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: SHARON AUERBACH, <sup>JOSEPH</sup> MILTON GILPIN

Address here: 1467 IOWA AVE W

Sign here:



March 30, 2021

Hi Bill,

Our landlord got back to us right away saying he would back the cause if we give our support. So for what it's worth, here are our signatures!

Shun & Thilton

**Street and alley correction**

Hello neighbors,

My name is Bill Mosier. For many years now we have had to put up with the lack of proper drainage on Pascal between Iowa and Idaho when it begins thawing in the spring. There is also a problem with drainage of the alley where it intersects with Pascal (east end). I'm sure you all have driven through unusually deep water or deep ruts caused from an ice buildup in these areas.

After tiring of chopping ice to get the street and alley to drain, I thought it was time for someone to make a complaint to the city. I sent pictures to the Public Works Dept and the City Engineer. They have acknowledged that there is a problem with the area I have described. They have actually come out and shot elevations on the street (Pascal) and the east end of the alley. I was told to get a petition together and present it to the city for consideration. This is the reason for this letter. I'm asking for all of us to get behind this effort. Now, here's the kicker. I was also told that the city will take any responsibility for corrections to the street but the residents are 90% responsible for any corrections to the alley. That means we all take a bit of a hit, but after I witnessed a lady walking her dog this spring, fall flat on her back after slipping on the ice that had built up 10 feet out into the street, I thought it was time to act. I believe that the 90% responsibility will be negotiable. If you wish to join me in the effort to get these problems corrected please state your address and phone number then sign this letter and return it to me.

I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Thomas M. Miller

Address here: 1485 Iowa West

Sign here: *Thomas M. Miller*



# Hi NEIGHBOR

---

Talked to a Roseville  
engineer who told me  
Roseville has been contracted  
by Falcon Heights to do  
maintenance on the alleys.  
He is proposing the alley  
be repaved and crowned  
Tom.

**Street and alley correction**

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Thank you,  
Bill Mosier

Print name here: Paul + Sharon Eberhard

Address here: 1497 Iowa Ave West

Sign here: Paul Eberhard

Bill, thanks for taking the initiative on this. We support your efforts. We are assuming that at some point there will be an estimate from which we can determine approximate cost. Another thought, my feeling is that the current snow plower of the alley could possibly help the situation. He did not do a good job at either end this year but especially on the Pascal side. Thanks, Paul

**Street and alley correction**

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: Walter Dunlap

Address here: 1503 Iowa Avenue

Sign here: 

**Street and alley correction**

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

Print name here: KURT JOHNSON & LILY THAROR

Address here: 1507 Iowa Ave West

Sign here: 

Bill,  
I can help out with this. Give me a call. The Alley needs a re-pave anyway.  
Regards  
Kurt



**Street and alley correction**

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I'm at 1464 Idaho Ave W.

Thank you,  
Bill Mosier

\* Depends on the amount of money for alley repair per household.

Print name here: Connie Thompson

Address here: 1482 Idaho Av. W.

Phone (opt) here: \_\_\_\_\_

Sign here: C. Thompson\*

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**CITY OF FALCON HEIGHTS  
COUNCIL RESOLUTION**

May 12, 2021

No. 21-21

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**RESOLUTION ORDER FEASIBILITY REPORT AND ORDERING PUBLIC HEARING  
FOR ALLEY IMPROVEMENT**

BE IT RESOLVED by the City Council of the City of Falcon Heights, as follows:

WHEREAS, The City of Falcon Heights plans to complete an alley improvement project in 2021.

WHEREAS, The City of Falcon Heights proposes to improve the following alley;

- Idaho/Iowa, between Pascal St and Arona St

WHEREAS, the City of Falcon Heights received a valid petition from a majority of adjacent property owners requesting improvement of the alley,

WHEREAS, the City of Falcon Heights plans to assess all of a portion of the cost of the improvements to the benefited property owners, pursuant to Minnesota Statutes, Chapter 429,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FALCON HEIGHTS, MINNESOTA:

1. That the proposed improvement, called Improvement 21-03, 2021 Alley Improvement Project, be referred to the City Engineer for study and that the engineer is instructed to report to the council with all convenient speed advising the council in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.
  
2. A public hearing shall be held on such proposed improvement on the June 9, 2021 in the council chambers of the city hall at 7:00 p.m. and the City Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Moved by:

Approved by: \_\_\_\_\_  
Randall C. Gustafson  
Mayor

GUSTAFSON           \_\_\_ In Favor  
MIAZGA  
ANDREWS           \_\_\_ Against  
LEEHY  
WEHYEE

Attested by: \_\_\_\_\_  
Sack Thongvanh  
City Administrator