

**REGULAR MEETING OF THE
ST. CLOUD HRA BOARD OF COMMISSIONERS**

City Hall Council Chambers, 400 2nd Street South

**Wednesday, February 26, 2020
6:00 P.M.**

STUDY SESSION – 5:00 P.M. – CR1 – Agenda: Rehab Programs

Mission Statement: To enhance the communities we serve by providing housing opportunities,
fostering stability, and promoting neighborhood revitalization.

Regular Meeting Agenda:

1. Roll Call.

Consent Agenda:

2. Approval of Agenda. REQUESTED ACTION: Approve.
3. Approval of Study Session Minutes, January 22, 2020. REQUESTED ACTION: Approve.
4. Approval of Annual Meeting Minutes, January 22, 2020. REQUESTED ACTION: Approve.
5. Approval of Regular Meeting Minutes, January 22, 2020. REQUESTED ACTION: Approve.
6. Approval of Scattered Site Roof Replacement Contract. REQUESTED ACTION: Approve.
7. Approval of Write-off Accounts Receivable. REQUESTED ACTION: Approve.
8. Approval of Change to Personnel Policy 02.13 Employee Probation.
REQUESTED ACTION: Approve.

Open Forum: At this time members of the public may address the Board with questions, concerns, or comments (regarding an item NOT on the agenda). Citizens are asked to sign up to speak prior to the Open Forum portion of the meeting. Speakers will be limited to the first five citizens who sign up. The Board members will not ask questions of the speakers, but rather refer the matter to the Administration with a request for a follow-up report. A citizen may speak at the Open Forum only twice during the year. Open Forum is limited to a total of 10 minutes. TIME LIMIT IS 2 MINUTES PER PERSON.

Old Business:

9.
 - A. Public Hearing on the Change to the Admin Plan and the Admissions and Continued Occupancy Policy (ACOP) for Public Housing.
 - B. Approval of the Change to the Admin Plan and the Public Housing ACOP.

New Business:

10. Approval for St. Cloud HRA to Administer Vouchers for City of Delano.
11. Approval of Resolution 2020-02 - Publicly Owned Housing Program Deferred Loan from Minnesota Housing Finance Agency for Empire Apartments.
12. Report on Activities.

Open Discussion:

Adjourn.

2020 HRA Board Meeting Schedule - 4th Wednesday each month at 6:00 pm; early meetings as needed.
Note: November and December moved forward one week to accommodate holidays. April 22nd and December 16th meetings will begin at 4:00 p.m.

JANUARY							FEBRUARY							MARCH						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
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26	27	28	29	30	31		23	24	25	26	27	28	29	29	30	31				
APRIL							MAY							JUNE						
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26	27	28	29	30			24	25	26	27	28	29	30	28	29	30				
							31													
JULY							AUGUST							SEPTEMBER						
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19	20	21	22	23	24	25	16	17	18	19	20	21	22	20	21	22	23	24	25	26
26	27	28	29	30	31		23	24	25	26	27	28	29	27	28	29	30			
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OCTOBER							NOVEMBER							DECEMBER						
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11	12	13	14	15	16	17	8	9	10	11	12	13	14	13	14	15	16	17	18	19
18	19	20	21	22	23	24	15	16	17	18	19	20	21	20	21	22	23	24	25	26
25	26	27	28	29	30	31	22	23	24	25	26	27	28	27	28	29	30	31		

ST. CLOUD HOUSING & REDEVELOPMENT AUTHORITY

STUDY SESSION

Wednesday, January 22, 2020

A Study Session for the St. Cloud HRA Board of Commissioners was held on Wednesday, January 22, 2020, City Hall Conference Room One, 400 2nd Street South, St. Cloud, MN at 5:30 p.m.. Commissioners present: Mike Conway, Nancy Gohman, George Hontos, Seal Dwyer and Jeff Goerger. Absent: Abdi Daisane. The Board has one vacancy.

Staff present: Executive Director Louise Reis, Finance Director Karen Rizer, Voucher Programs Manager Lori Lygre, Property Manager Matt Swanson, Project Manager Paul Soenneker and Neighborhood Program Assistant Shannon Adamski.

Discussion was held on the proposed Goals for 2020 to 2025. Karen Rizer, Finance Director, suggested changing the word “vacant” to “blighted” in Goal #1, Action Step #4, all agreed.

Commissioner Hontos asked if we had something in the goals regarding doing well on scores such as SEMAP (Section Eight Management Assessment Program). Louise stated that this is covered in Goal #2.

There being no further discussion the session concluded at 5:55 p.m.

ATTEST:

Chair, Nancy Gohman

Secretary, George Hontos

**ST. CLOUD HOUSING & REDEVELOPMENT AUTHORITY
ANNUAL MEETING**

Wednesday, January 22, 2020

The Annual Meeting of the St. Cloud HRA was held on Wednesday, January 22, 2019, City Hall Council Chambers, 400 2nd Street South. Chair Nancy Gohman called the meeting to order at 6:00 p.m. The regular meeting followed immediately.

1. Roll Call and Pledge of Allegiance: Commissioners present: Mike Conway, Seal Dwyer, Jeff Goerger, Nancy Gohman and George Hontos. [The Board has one vacancy] Absent: Abdi Daisane. Pledge of Allegiance was spoken.
2. Approval of Agenda – Commissioner Dwyer moved for approval; Commissioner Goerger seconded the motion. All Commissioners voted in favor. The motion carried.
3. Election of Board Officers for 2020: Commissioner Goerger moved for Commissioner Gohman to remain as Chair; Commissioner Conway seconded the motion. All Commissioners (with exception of Chair Gohman) voted in favor. The motion carried.

Commissioner Conway moved for Commissioner Goerger to remain as Vice Chair; Commissioner Hontos seconded the motion. All Commissioners voted in favor (with exception of Commissioner Goerger). The motion carried.

Commissioner Goerger moved for Commissioner Hontos to remain as Secretary; Commissioner Conway seconded the motion. All Commissioners (with exception of Commissioner Hontos) voted in favor. The motion carried.

4. Review and Approval of Professional Responsibilities and the Code of Professional Conduct and Ethics for Commissioners: Commissioner Goerger moved for approval; Commissioner Dwyer seconded the motion. All Commissioners voted in favor. The motion carried.

5. Designation of committees:

Committee of the Whole: Commissioner Conway moved for approval; Commissioner Goerger seconded the motion. All Commissioners voted in favor. The motion carried.

Audit Committee: Commissioners Conway, Dwyer and Gohman serve on this committee. Commissioners Conway, Dwyer and Gohman stated they would stay; Commissioner Hontos made a motion for Conway, Dwyer, Gohman ; Commissioner Goerger seconded the motion. All Commissioners voted in favor. The motion carried.

Personnel Committee: Commissioners Dwyer, Goerger and Hontos serve on this committee. Commissioners Dwyer, Goerger and Hontos stated they would stay; Commissioner Conway made a motion for Dwyer, Goerger and Hontos; Commissioner Goerger seconded the motion. All Commissioners voted in favor. The motion carried.

6. Designation of Official Newspaper – Commissioner Goerger moved to continue with the *St. Cloud Times* as the HRA's official newspaper; Commissioner Conway seconded the motion. All Commissioners voted in

favor. The motion carried.

7. Designation of Official Depository - Commissioner Dwyer moved to continue using Liberty Bank Minnesota as the HRA's official depository; Commissioner Conway seconded the motion. All Commissioners voted in favor. The motion carried.

8. Designation of Legal Representation – Louise Reis, Executive Director, stated in November 2017 the current legal counsel, Rinke Noonan Law Firm, St. Cloud was selected as HRA general counsel and a Request for Proposal will go out in the fall of 2020. Commissioner Goerger moved for approval; Commissioner Conway seconded the motion. All Commissioners voted in favor. The motion carried.

9. Designation of Auditors – Karen Rizer, Finance Director, stated the Board already approved Redpath and Company, LTD as the HRA auditor and Schlenner Wenner & Company as tax credit property auditors; however, it must also be designated each year at the annual meeting. Commissioner Dwyer moved for approval; Commissioner Goerger seconded the motion. All Commissioners voted in favor. The motion carried.

10. Set Commissioner Compensation for 2020 – Ms. Reis stated to the Board that MN Statute 469.011, subdivision 4 was included in the Board packet for their review and vote. Commissioner Goerger asked how many commissioners receive compensation at this time. Karen Rizer responded that two out of the six commissioners currently are being compensated. Commissioner Hontos moved for the compensation to remain at the rate of \$75.00 per meeting as allowed by statute; Commissioner Goerger seconded the motion for discussion. All Commissioners voted in favor. The motion carried.

11. Meeting Dates and Times – Chair Gohman asked if anyone had any changes or objections to the proposed schedule; there being none, Commissioner Goerger moved for approval; Commissioner Conway seconded the motion. All Commissioners were in favor of dates and times proposed for the 4th Wednesday of each month with the following exceptions: November up one week to November 18, 2020; December up one week to December 16, 2020 an hour early at 4:00 p.m., and April 22, 2020 an hour early at 4:00 p.m. The motion carried.

12. Annual Reports for 2019 – Ms. Reis referred the Board to their packet showing a *Code of Professional Conduct and Ethics for the Board of Commissioners*. She said this form was created as a part of the annual meeting for Commissioners to read and sign off on annually stating they understood and agreed to its terms.

Ms. Reis pointed out a chart in their packet showing that the St. Cloud HRA has been a high performer since 2002 in both Section 8 and Public Housing. She then stated that staff was present and available to answer any questions regarding the additional reporting in their packets. Commission Hontos complimented staff on the thorough reports and said they were very well done. He appreciated the amount of effort that goes into providing so much information and suggested staff talk on highlights in each of their areas.

Chair Gohman asked Wilson Apartments Property Manager Matt Swanson to touch on the report for the Property Management and Rental Programs of Public Housing, Section 8 New Construction, Affordable and Tax Credits.

Mr. Swanson began his report stating the vacancy rates for 2019 at 1.65%, down from the prior year of 1.80%. He went through statistics for the buildings including turn-overs, individual vacancy rates, age, race and income demographics, and how many letters were sent out to those who had come to the top of the waiting list and how many responded.

Commissioner Hontos asked if there was a way to reduce the vacancy time between units by perhaps speeding up unit turn-overs, the application process, etc. Mr. Swanson stated that they really are done as efficient as possible. Ms. Reis added there are other factors that can cause delays, such as a tenant having to put their vacancy notice in at their current residence.

Lori Lygre, Voucher Programs Manager introduced herself and gave the report on the Housing Choice Voucher Program and Special Programs. Ms. Lygre highlighted the graph in her report focusing on the County of Residence. She said in 2019, over 4 million was spent in the City of St. Cloud to private landlords. Ms. Lygre continued with statistics from the program including an increase in household income and earned income. She added that this year 287 voucher holders pay more than 30% of their income for rent and that number is up 30%. Commissioner Hontos asked what the maximum is that a tenant can pay for rent. Ms. Lygre answered that a tenant could not pay more than 40% of their income at time of move-in for rent.

Lastly, Ms. Lygre touched on a new program, Foster Youth to Independent Initiative Vouchers. She said it is anticipated that first referrals will be received in early 2020.

Paul Soenneker, Project Manager, introduced himself and began with the capital improvement projects for the year. He said both Empire and Wilson Apartments completed their elevator replacements. Mr. Soenneker stated that the Homestead Incentive Program has assisted 31 households in 2019. Mr. Soenneker also spoke about the CDBG (Community Development Block Grant) Program and stated in 2019, 13 projects were completed and 11 are in progress. Lastly, Mr. Soenneker stated that 3 blighted properties in St. Cloud were demolished and given to Habitat for Humanity using the NSP funds.

Chair Gohman thanked staff members for the reports and the work done by the agency. There being no further questions, Chair Gohman adjourned the annual meeting at 6:34 p.m. The meeting moved immediately into the regular meeting.

ATTEST:

Chair, Nancy Gohman

Secretary, George Hontos

ST. CLOUD HOUSING & REDEVELOPMENT AUTHORITY
REGULAR MEETING

Wednesday, January 22, 2020

A Regular Meeting for the St. Cloud HRA Board of Commissioners was held on Wednesday, January 22, 2020, City Hall Council Chambers, 400 2nd Street South, St. Cloud, MN. Chair Nancy Gohman called the meeting to order at 6:34 p.m. (immediately following the annual meeting).

1. Roll call was noted that the following Commissioners were present: Seal Dwyer, Nancy Gohman, George Hontos, Jeff Goerger and Mike Conway. Absent: Abdi Daisane [The board has one vacancy.]
2. Approval of Agenda – Commissioner Dwyer moved for approval of the consent items and agenda; Commissioner Conway seconded the motion. The motion carried.
3. Approval of Minutes of Study Session, December 18, 2019 – approved as presented.
4. Approval of Minutes of Regular Meeting, December 18, 2019 – approved as presented.
5. Approval of Mission Statement – approved as presented.
6. Approval of Goals for 2020 to 2025 – approved as presented.

Open Forum: Chair Gohman opened the forum to the public; there was no one wishing to speak.

Old Business: none.

New Business:

7. Approval of Resolution 2020- 01 – Approval of Section 8 Management Assessment Program (SEMAP) Certification – Louise Reis, Executive Director, explained how annually the Agency is required by HUD to have Board approval of performance measures for key areas of the Section 8 Housing Choice Voucher Program. She said staff members internally perform a sampling of files, as well as HUD reviewing a selection of files, to determine the accuracy for these performance measures to be met. Commissioner Dwyer moved for approval; Commissioner Hontos seconded the motion. All Commissioners present voted in favor. The motion carried.
8. Approval of Recommendation from the Personnel Committee as relating to the Annual Performance Review of the Executive Director for 2020 – Personnel Committee Chair, Jeff Goerger, stated the full Board met with the Personnel Committee (himself, Seal Dwyer and George Hontos) at 5:00 p.m. in Conference Room One for discussion. He said the Committee had met at prior meetings and reviewed goals submitted by Ms. Reis, to which they had added additional goals, and, today presented them to the entire Board.

Mr. Goerger read the following motion decided at that meeting: *The Personnel Committee of the St. Cloud HRA has conducted a performance review of the Executive Director Louise Reis and through the process of evaluation has determined that the Executive Director has achieved the stated goals and has conducted her*

business successfully. We recommend to the full Board accepting this performance evaluation along with the new goals for the coming year and the salary adjustment of 4% effective December 27, 2019.

Commissioner Hontos moved for approval; Commissioner Conway seconded the motion. All Commissioners voted in favor. The motion carried.

Commission Hontos commented that he felt he could speak for the entire Board in thanking Ms. Reis for her continued efforts and great work at the St. Cloud HRA; Commissioners all concurred.

9. Report on Activities – Ms. Reis stated that she had recently completed and submitted the application for the Community Development Block Grant program and the Minnesota Participation Loan Program.

Open Discussion: none.

There being no further business the meeting adjourned at 6:43 p.m.

ATTEST:

Secretary, George Hontos

Chair, Nancy Gohman

TO: St. Cloud HRA Board of Commissioners

FROM: Paul Soenneker, Project Manager

DATE: February 13, 2020

SUBJECT: Approval of Contract for Scattered Site Townhome Asphalt Shingle Roof Replacement

Requested Action: Approve the contract with BD Exteriors, Inc. in the amount of \$183,267.00 to replace asphalt shingled roofs on townhomes & garages at Cedar Ridge Townhomes, Flintwood Townhomes & Quarry Ridge Townhomes all located in St. Cloud.

Background: The HRA owns & manages various scattered site townhomes in St. Cloud. We have identified 3 townhomes in need of roof replacements. We solicited bids from 10 companies and advertised it in the St. Cloud Times & on the HRA website. We received bids from 4 companies as outlined below by the due date.

The four bids are:

Proposals

BD Exteriors 679 Heritage Dr. Sartell, MN 56377	\$183,267.00
G & V Construction Inc. 3311 224 th St. W. Farmington, MN 55024	\$375,799.98
J. G. Hause Construction, Inc. 6211 Upper 51 st St. Oakdale, MN 55128	\$264,760.00
Master Trade Services 1200 5 th St. S. Sauk Rapids, MN 56379	\$183,382.00

I believe the low bid we received is reasonable for the scope of work requested and therefore recommend awarding a contract to BD Exteriors, Inc. for the sum of \$183,267.00.

Frequency of Request: Once

Related Actions: None

Future Action: None

Relationship to Goals: Goal #2 St. Cloud HRA will promote fair housing and assure high performance in HRA properties and housing subsidy programs

Budget Impacts: This item will be funded through Capital Funds.

TO: St. Cloud HRA Board of Commissioners
 FROM: Louise Reis, Executive Director
 DATE: February 26, 2020
 SUBJECT: Write-Off Resident Accounts Receivable

Requested Action: Authorization from the Board to write-off accounts receivable on former residents and program participants in the following amounts:

Public Housing	\$ 9,540.75
Germain Towers	\$ 3,708.51
Northway A & B	\$ 1,323.83
Eastwood	\$ 1,913.50
Al Loehr	\$ -
Creeks	\$ 3,344.09
Brownstones	\$ -
Swisshelm One	\$ 1,077.20
Swisshelm Two	\$ 517.55
Westwood One	\$ -

Background: Periodically, we are required to review the vacated resident accounts receivable and determine which accounts are not collectible.

The receivables for the HRA properties include actual rent and all damages not paid by a resident prior to vacating the unit. The receivables greater than 60 days old, as of December 31, 2019 are determined not to be collectible.

The receivables that are greater than 60 days old are forwarded to Minnesota Department of Revenue under the Revenue Recapture Program. During the last six months of 2019, the HRA has recovered the following amounts:

Public Housing	\$ 2,815.96
Germain Towers	\$ 24.94
Northway A & B	\$ -
Eastwood	\$ 1,031.97
Al Loehr	\$ 400.00
Creeks	\$ 428.63
Brownstones	\$ 188.00
Swisshelm One	\$ 150.00
Swisshelm Two	\$ -
Westwood One	\$ 100.00

Frequency of Request: Bi-annually

Related Actions: None

Future Action: None

Relationship to Goals: None

Budget Impact: Collection losses are budgeted for each⁸ property.

**St Cloud HRA
Dwelling Rent and Tenant A/R Written Off
Fiscal Period 7/1/19 through 12/31/19**

	<u>Dwelling Rental Income</u>	<u>Tenant Accounts Written Off</u>	<u>percentage w/o to income</u>
Empire	\$ 131,582.00	\$ 5,572.97	4.24%
Scattered Sites	133,322.00	2,755.28	2.07%
Wilson	171,401.65	1,212.50	0.71%
Germain Towers	94,628.00	3,708.51	3.92%
Northway A & B	160,610.00	1,323.83	0.82%
Eastwood	57,262.00	1,913.50	3.34%
Al Loehr	141,238.00	0.00	0.00%
Creeks	83,275.00	3,344.09	4.02%
Brownstones	43,200.00	0.00	0.00%
Swisshelm One	123,556.00	1,077.20	0.87%
Swisshelm Two	123,926.00	517.55	0.42%
Westwood One	124,814.00	0.00	0.00%
Total	\$ 1,388,814.65	\$ 21,425.43	1.54%
Total Recovered through Revenue Recapture, Collection Agencies or private payments		5,139.50	
Net Bad Debt	1,388,814.65	16,285.93	1.17%

St Cloud HRA
Analysis of Tenant Accounts Receivable Written-Off
Calendar Year Ended 12/31/19

	Dwelling Rental Income	A/R W/O 6/30/2019	A/R W/O 12/31/2019	Total A/R W/O 2019	Total W/O as % of Income	Total 2019 Recoveries	Net W/O as % of Income
Empire Apts	265,985.00	1,236.21	5,572.97	6,809.18	2.56%	2,207.90	1.73%
Scattered Sites	255,316.00	3,765.24	2,755.28	6,520.52	2.55%	8,114.93	-0.62%
Wilson Apts	344,753.65	645.29	1,212.50	1,857.79	0.54%	921.77	0.27%
Total Public Housing	866,054.65	5,646.74	9,540.75	15,187.49		11,244.60	
Germain Towers	179,231.00	3,735.87	3,708.51	7,444.38	4.15%	499.11	3.88%
Northway A & B	321,378.00	705.37	1,323.83	2,029.20	0.63%	771.59	0.39%
Eastwood	114,155.00	896.60	1,913.50	2,810.10	2.46%	3,089.20	-0.24%
Al Loehr	279,250.00	73.67	0.00	73.67	0.03%	400.00	-0.12%
Creeks	168,500.00	0.00	3,344.09	3,344.09	1.98%	577.63	1.64%
Brownstones	86,400.00	0.00	0.00	0.00	0.00%	188.00	-0.22%
Swisshelm One	123,556.00	n/a	1,077.20	1,077.20	0.87%	150.00	0.75%
Swisshelm Two	249,793.00	9.60	517.55	527.15	0.21%	238.67	0.12%
Westwood One	124,814.00	n/a	0.00	0.00	0.00%	100.00	-0.08%
	2,513,131.65	11,067.85	21,425.43	32,493.28	1.29%	17,258.80	0.61%

	A/R Balance Prior to W/O	A/R W/O @ 12/31/2019 % total A/R	A/R Balance After W/O
<i>Balance as of December 31, 2019</i>			
Empire Apts	6,917.71	80.56%	1,344.74
Scattered Sites	22,634.09	12.17%	19,878.81
Wilson Apts	2,662.23	45.54%	1,449.73
Total Public Housing	32,214.03	17.53%	22,673.28
Germain Towers	3,788.51	97.89%	80.00
Northway A & B	2,031.83	65.15%	708.00
Eastwood	3,523.68	54.30%	1,610.18
Al Loehr	4,302.07	0.00%	4,302.07
Creeks	8,313.07	40.23%	4,968.98
Brownstones	1,626.59	0.00%	1,626.59
Swisshelm One	3,181.21	33.86%	2,104.01
Swisshelm Two	4,241.40	12.20%	3,723.85
Westwood One	6,959.80	0.00%	6,959.80

St. Cloud HRA
Tenant Write-Off History by Property

	2019	2018	2017	2016
PUBLIC HOUSING				
Total Write-offs	15187.49	31,229.62	13,835.79	24,663.38
Total Recoveries	11244.6	8,579.61	17,598.45	14,545.50
Net Write-Offs	3,942.89	22,650.01	(3,762.66)	10,117.88
Net Write-Offs as a % of Rental Revenue	0.46%	2.47%	-0.43%	1.23%
GERMAIN TOWERS				
Total Write-offs	7444.38	514.98	6,309.17	4,377.69
Total Recoveries	499.11	3,924.99	1,403.95	1,167.22
Net Write-Offs	6,945.27	(3,410.01)	4,905.22	3,210.47
Net Write-Offs as a % of Rental Revenue	3.88%	-2.04%	3.44%	2.41%
NORTHWAY A & B				
Total Write-offs	2029.2	224.35	4,797.83	4,419.64
Total Recoveries	771.59	1,576.43	3,928.44	1,511.70
Net Write-Offs (Recoveries)	1,257.61	(1,352.08)	869.39	2,907.94
Net Write-Offs as a % of Rental Revenue	0.39%	-0.43%	0.29%	0.99%
EASTWOOD				
Total Write-offs	2810.10	3,385.24	2,117.35	681.87
Total Recoveries	3089.2	291.00	2,160.32	2,275.38
Net Write-Offs (Recoveries)	(279.10)	3,094.24	(42.97)	(1,593.51)
Net Write-Offs as a % of Rental Revenue	-0.24%	2.69%	-0.04%	-1.43%
AL LOEHR				
Total Write-offs	73.67	3,264.30		
Total Recoveries	400.00	0.00		
Net Write-Offs (Recoveries)	(326.33)	3,264.30		
Net Write-Offs as a % of Rental Revenue	-0.12%	1.19%		
CREEKS				
Total Write-offs	3344.09	0.00	2,299.45	0.00
Total Recoveries	577.63	582.36	725.99	2,424.28
Net Write-Offs (Recoveries)	2,766.46	(582.36)	1,573.46	(2,424.28)
Net Write-Offs as a % of Rental Revenue	1.64%	-0.35%	0.98%	-1.52%
BROWNSTONES				
Total Write-offs	0.00	0.00	0.00	0.00
Total Recoveries	188.00	0.00	0.00	0.00
Net Write-Offs (Recoveries)	(188.00)	0.00	0.00	0.00
Net Write-Offs as a % of Rental Revenue	-0.22%	0.00%	0.00%	0.00%
SWISSHELM ONE beginning 7/1/2019				
Total Write-offs	1077.20			
Total Recoveries	150			
Net Write-Offs (Recoveries)	927.20			
Net Write-Offs as a % of Rental Revenue	0.75%			
SWISSHELM TWO				
Total Write-offs	527.15	0.00		
Total Recoveries	238.67	0.00		
Net Write-Offs (Recoveries)	288.48	0.00		
Net Write-Offs as a % of Rental Revenue	0.12%	0.00%		
WESTWOOD ONE beginning 7/1/2019				
Total Write-offs	0.00			
Total Recoveries	100			
Net Write-Offs (Recoveries)	(100.00)			
Net Write-Offs as a % of Rental Revenue	-0.08%			

To: St. Cloud HRA Board of Commissioners

From: Louise Reis, Executive Director and Karen Rizer, Finance Director

Date: February 14, 2020

Subject: Change to Personnel Policy 02.13 Employee Probation

Requested Action: Approve changing Personnel Policy 02.13

Background: On October 28, 2015, Personnel Policy 05.10 Paid Leave was revised to remove the following sentence:

Probationary employees may only use accrued Paid Leave for sickness during their probationary period.

It was not realized the following sentence is included in Policy 02.13 Employee Probation:

Employees who are in a probationary period because they are a new employee at the HRA may use paid leave for sickness reasons only during their probationary period.

We are requesting to remove the above sentence from Policy 02.13 so it is consistent with Policy 05.10

Frequency of Request: Once.

Related Actions: None.

Future Action: None.

Budget Impact: None.

TO: St. Cloud HRA Board of Commissioners

FROM: Louise Reis, Executive Director

DATE: February 19, 2020

SUBJECT: Public Hearing and Approval of Changes to the Admin Plan and Admissions and Continued Occupancy Policies

Requested Action: Hold Public Hearing and Approval of Changes to the Admin Plan and Admissions and Continued Occupancy Policies

Background: Annually the St. Cloud HRA is required to submit their PHA Plan for the fiscal year to the Department of Housing and Urban Development (HUD). The plan for 2020 was approved in August of 2019. Since then we were awarded Mainstream Vouchers by the Department of HUD, and need to update our Admin Plan for the Housing Choice Voucher Program.

The Admissions and Continued Occupancy Policy (ACOP) for the public housing program needed to make slight changes to the Resident Handbooks, leases and the Smoking Policy.

The proposed changes to the Admin Plan and Public Housing Admissions and Continued Occupancy Policies (ACOP) were submitted to legal counsel at Rinke Noonan and St. Cloud Area Legal Services for their review. A summary of the proposed changes are listed below:

Housing Choice Voucher (Admin Plan)

The Administrative Plan (Admin Plan) reflects changes based on the requirements of the Mainstream Voucher Program. The plan indicates who is eligible for a Mainstream Vouchers, and which populations qualify for a preference. The Admin Plan will also give a preference for households who are in a HUD Permanent Supportive Housing or a Minnesota LTH/HPH unit.

Public Housing (Admissions and Continued Occupancy Policies - ACOP)

The Resident Handbooks and leases for the scattered site homes have been updated to clarify the lawn care and snow removal requirements as required by the city. The Smoking Policy has been updated to reflect that a single incident of being caught smoking in the building is grounds for lease termination. We also added that vaping and the burning of sage in our buildings are prohibited.

Options: Approve the changes as written or approve the changes with recommendations that occur during public hearing and meeting.

Frequency of Request: As needed.

Related Actions: None at this time.

Future Action: None at this time.

Relationship to Goals: Goal #2 – St. Cloud HRA will promote fair housing and strive for high performance in HRA properties and housing subsidy programs.

Budget Impact: None anticipated at this time.

TO: St. Cloud HRA Board of Commissioners

FROM: Louise Reis, Executive Director

DATE: February 19, 2020

SUBJECT: Approval for St. Cloud HRA to Administer Vouchers for City of Delano

Requested Action: Approval for the St. Cloud HRA to administer vouchers for the City of Delano.

Background: The St. Cloud HRA currently administers the Housing Choice Voucher Program for the City of St. Cloud, Benton, Sherburne, Stearns and Wright counties. The City of Delano is located in Wright County. The Delano HRA is applying with the Department of Housing and Urban Development to convert their public housing units to either a Project Based Section 8 or a Market Rate housing building under the Rental Assistance Demonstration (RAD) Program. Since the Delano HRA does not administer a housing choice voucher program, HUD requires them to partner with our agency because we have jurisdiction over Wright County. If their application for RAD is approved, the St. Cloud HRA would administer 30 vouchers for their public housing conversion. The vouchers would not be included in the St. Cloud HRA's allocation of vouchers and they would be separately funded and accounted for.

Frequency of Request: One time.

Related Actions: None

Future Action: There would be additional documents coming before the board for approval if the Delano public housing building is converted.

Relationship to Goals: Goal #1 – The St. Cloud HRA will be an active partner in neighborhood/community concerns regarding housing and neighborhoods.

Budget Impact: The St. Cloud HRA would earn administrative fees on these vouchers.

TO: HRA Board of Commissioners

FROM: Karen Rizer, CPA
Finance Director

DATE: February 19, 2020

SUBJECT: Approval of Resolution required by MN Housing related to the Empire Elevator Project

Requested Action: Approve the resolution related to the Publicly Owned Housing Program Deferred Loan from MN Housing. We are required to use their template.

Background: In 2018, the HRA was awarded a forgivable loan from MN Housing for the Wilson and Empire elevator projects. The total cost of the Wilson project is expected to be approximately \$469,706. The MN Housing forgivable loan will pay for approximately \$281,639 of the project. HUD's Capital Fund Program will pay for approximately \$180,064 of the project. A state sales tax refund will cover the remaining \$8,003.

The Loan Commitment and draft documents are attached.

Options: Approve, deny, or table.

Frequency of Request: One time.

Related Actions: None.

Future Action: None.

Relationship to Goals: Goal #2 - The St. Cloud HRA will promote fair housing and strive for high performance in HRA properties and housing subsidy programs.

Budget Impact: Paying part of the elevator project with these forgivable loan proceeds enables us to use the Capital Fund Program monies for other projects.

**CERTIFIED COPY OF RESOLUTIONS ADOPTED BY THE
MEMBERS OF THE ST. CLOUD HOUSING AND
REDEVELOPMENT AUTHORITY**

I HEREBY CERTIFY that I am the duly elected Secretary and keeper of the records of the St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota (the “HRA”), that the following is a true and correct copy of Resolutions duly and unanimously adopted by all of the members of the HRA on February 26, 2020, all of the members being present and constituting a quorum for the transaction of business; further, that such meeting was called in compliance with all applicable laws and the by-law requirements of the HRA; that such Resolutions do not conflict with any by-law of the HRA nor have such Resolutions been in any way altered, amended or repealed and are in full force and effect, unrevoked and unrescinded as of this day, and have been entered upon the regular Minute Book of the HRA, as of the aforementioned date, and that the members of the HRA have, and at the time of adoption of such Resolution, had, full power and lawful authority to adopt such Resolutions and to confer the powers thereby granted to the officer(s) therein named who has (have) full power and lawful authority to exercise the same:

WHEREAS, on this 26th day of February, 2020 there has been presented to this meeting of the members of this HRA a proposal for the HRA to borrow from the Minnesota Housing Finance Agency, a public body corporate and politic of the State of Minnesota, 400 Wabasha Street North, Suite 400, St. Paul, MN 55102-1109 (the “Agency”) a sum not to exceed Two Hundred Ninety Thousand Dollars (\$290,000) to finance the acquisition or construction or rehabilitation of a housing development to be known as Empire Apartments which borrowing shall be evidenced by the Loan Repayment Agreement and Mortgage (the “Repayment Agreement”) covering the personal property owned by the HRA and located at 54 4th Avenue North in Stearns County, Minnesota, and more fully described in **Exhibit A** attached hereto and made a part hereof (the “Property”); further the proposed form of Repayment Agreement, General Obligation Bonds Declaration, and Declaration of Covenants, Conditions, and Restrictions (the “Agency Documents”); further the proposed forms of the Agency Documents have been presented to the members of this HRA;

NOW, THEREFORE, Be it Resolved by the members of the HRA, that the HRA be and it hereby is authorized to borrow the funds referred to hereinabove from the Agency; and

BE IT FURTHER RESOLVED, that Louise Reis, Executive Director, of the HRA be and hereby are authorized and directed on behalf of the HRA at any time and from time to time hereafter and without further action by or authority or direction from the members of the HRA, to execute and deliver or cause to be executed and delivered those documents referred to hereinabove, and all such other further agreements, assignments, statements, instruments, certificates and documents and to do or cause to be done all such other and further acts and things as such Officers may determine to be necessary or advisable under or in connection with such borrowing, and that the execution by such Officers of any such agreement, assignment, statement, instrument, certificate or document, or the doing of any such act or thing, shall be conclusive evidence of their determination in that respect, including, but not limited to, the execution of any and all agreements with the Agency for the extension of the time of payment for the aforesaid loan or any part thereof; and

BE IT FURTHER RESOLVED, that the Agency be and it hereby is authorized to rely on the continuing force and effect of these Resolutions, until receipt by the Commissioner of the Agency at its principal office of notice in writing from the HRA of any amendments or alterations thereof.

ATTEST:

Chair

Secretary

Dated: February 26, 2020 .

(Seal)

EXHIBIT A

LEGAL DESCRIPTION

Part of Lots One (1), Two (2), Three (3), and Four (4) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right of way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 220.56 feet Southeasterly right of way line of Great Northern Railway which is point of beginning; thence deflect $180^{\circ} 00'$ on reversed course last mentioned 183.38 feet to point North right of way line of First Street North extended; thence deflect left $84^{\circ} 33'$ on said right of way line of First Street North extended 198.89 feet; thence deflect left $35^{\circ} 48'$ a distance of 29 feet, more or less, to shoreline of Mississippi River; thence Northwesterly on said shoreline to Southeasterly right of way line of Great Northern Railway; thence Southwesterly on said right of way line to point of beginning.

And

Parts of Lots One (1), Two (2), and Three (3) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at a point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right-of-way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 37.18 feet for point of beginning; thence continue on last mentioned course 183.38 feet to Southeasterly right-of-way of Great Northern Railroad; thence Southwesterly on said Southeasterly right-of-way line to its intersection with Northeasterly right-of-way line of Fifth Avenue North; thence Southeasterly on said Northeasterly right-of-way line 147.58 feet to Northwesterly right-of-way line of First Street North; thence Northeasterly on said Northwesterly right-of-way line of First Street North and said right of line extended 183.75 feet to point of beginning.

Minnesota Housing Finance Agency
PUBLICLY OWNED HOUSING PROGRAM
(PUBLIC HOUSNG)

LOAN COMMITMENT
(End Loan)

MHFA Development No: D7613

Borrower:
St. Cloud Housing and Redevelopment
Authority
1225 West St. Germain Street
St. Cloud, MN 56301

Development Name and Location:
Empire Apartments
54 4th Avenue North
St. Cloud, MN 56303

TO: St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota ("Borrower").

The Minnesota Housing Finance Agency (the "MHFA") hereby notifies you of approval of your application for the following loan for the above-referenced proposed housing development:

- A deferred loan authorized by 2018 Minn. Laws Ch. 16A.695, Subdivision 5, Minn. Stat. § 462A.202 (the "POHP Loan") as may be amended, modified or replaced from time to time, and the MHFA rules and regulations thereunder (hereinafter cumulatively referred to as the "Act");

The proposed housing project will consist of that certain real property located in Stearns County, Minnesota, and more particularly described in **Exhibit A** attached hereto and made a part hereof (the "Real Property"), and all structures now situated thereon or to be rehabilitated thereon (cumulatively the "Development"). The proceeds of the POHP Loan are to be used to assist in the financing of the rehabilitation of the Development, and the total costs for such rehabilitation (the "Total Development Cost") are estimated to be \$484,969.00, as set forth in the POHP Sources and Uses Worksheet attached hereto as **Exhibit B** and made a part hereof (the "Sources and Uses Worksheet").

Empire Apartments, St. Cloud
POHP - ~~PH~~ Program
(Public Housing) Loan Commitment – End Loan
(Ver. 8/21/2015)

MHFA Dev. #7613
11/6/2018

By the acceptance of this Loan Commitment and the placing of its signatures hereon, Borrower agrees to supply all of the information and documentation required hereby, and to close the POHP Loan by executing documents in substantially the same form as those documents attached hereto as **Exhibits C through E** and any other documents referred to herein, and MHFA agrees to close the POHP Loan and to disburse to Borrower the proceeds thereof.

This Loan Commitment is subject to the following terms and conditions:

1. **Principal Amount and Use of POHP Loan.** The original principal amount of the POHP Loan shall not exceed \$325,000.00. Proceeds of the POHP Loan shall be used for rehabilitation of housing for low-income persons and households financed by the federal government and owned and operated by cities and counties as required under the Act.

2. **Interest Rate for the POHP Loan.** The interest rate for the POHP Loan shall be 0% per annum.

3. **Repayment of POHP Loan.** The POHP Loan shall be due and payable in accordance with the provisions contained in the POHP Mortgage defined and referred to hereinbelow.

4. **Closing of the POHP Loan.** As a condition precedent to the closing of the POHP Loan, each of the following documents or items shall be delivered to the MHFA in form and substance satisfactory to MHFA in its sole option and discretion:

A. A fully completed and executed Minnesota Housing Finance Agency Publicly Owned Housing Program (Public Housing) Deferred Loan Repayment Agreement (the "POHP Mortgage"), in substantially the same form as **Exhibit C** attached hereto, which evidences Borrower's obligation to repay the POHP Loan and imposes obligations and restrictions on the use and operation of the Development.

B. A fully completed and executed Government Obligation Bonds Proceeds Declaration (the "G. O. Bonds Declaration"), in substantially the same form as **Exhibit D** attached hereto, which evidences that the Development is subject to state general obligation bond financing restrictions.

C. A fully completed and executed Minnesota Housing Finance Agency Publicly Owned Housing Program (Public Housing) Declaration of Covenants, Conditions and Restrictions (the "POHP Declaration"), in substantially the same form as **Exhibit E** attached hereto, which evidences that the Development is subject to income and occupancy restrictions.

D. A resolution from the governing body of Borrower authorizing Borrower to enter into the POHP Mortgage, G.O. Bonds Declaration, POHP Declaration (cumulatively the "POHP Loan Documents"), and any other closing documents which may be required by MHFA in its sole option and discretion.

E. The instruments under which the Borrower is created and organized (i.e., articles of organization and bylaws).

F. A Certificate of Occupancy, or its equivalent, issued by the municipality in which the Development is located, certifying that the Development, as completed, conforms to all applicable safety and design standards and that all of the dwelling units in the Development are ready for occupancy by tenants.

G. Evidence satisfactory to MHFA, in its sole option and discretion, that Borrower has obtained the insurance coverage, or binders therefore, for the Development.

H. Evidence satisfactory to MHFA, in its sole option and discretion, as to whether or not the Development presently contains or upon completion will contain any asbestos or urea-formaldehyde foamed-in-place insulation and whether or not any toxic or hazardous substances presently exist in the Development or on or beneath the surface of the Real Property. If such evidence indicates that the Development presently contains or upon completion will contain any such insulation or any such substances presently exist in the Development or on or beneath the surface of the Real Property, then a plan, in form and substance acceptable to MHFA, must be prepared and submitted to the MHFA that describes what is to be done with such insulation or substances and includes cost estimates to complete such plan and sources of funding to pay such costs.

I. A Sworn Construction Statement to verify the costs of rehabilitation of the Development.

J. Unless waived by MHFA in writing, equal employment opportunity and anti-discrimination certifications executed by Borrower and any contractor performing any of the substantial rehabilitation, together with an affirmative action plan as approved by MHFA.

K. All such other documents, instruments, and/or information as may be required by the MHFA or the State of Minnesota, their legal counsel or bond counsel, as a result of obligations imposed thereon by any contract, agreement, or resolution relating to the issuance of notes or bonds the proceeds of which will be used to fund any portion of the POHP Loan.

L. All instruments and/or documents necessary, in the opinion of MHFA or its legal counsel, to authorize the execution by Borrower of the POHP Loan Documents, and

all other closing documents, whether or not referred to herein and designating the persons authorized to execute the POHP Loan Documents on behalf of the Borrower.

M. Any and all additional documents, instruments, or information that MHFA may reasonably request.

5. **Additional Closing Requirements.** In addition to the delivery of the items specified in Section 4 hereof, the following conditions precedent must be satisfied prior to the closing of the POHP Loan:

A. Borrower has demonstrated to the MHFA that there are sufficient funds available to acquire the Development and complete the rehabilitation of the Development in accordance with all applicable construction documents.

B. The Development must meet all MHFA underwriting standards for the POHP Loan.

C. If applicable, all approvals required under Minn. Stat § 16B.335, and the regulations relating thereto, have been obtained.

D. There has been no material change in Borrower's legal or financial condition.

6. **Changes in Conditions.** Any changes in the Plans and Specs, or in the conditions upon which this Loan Commitment is based, that shall occur after the date hereof must have the prior written approval of MHFA, which written approval shall be subject to any conditions as MHFA, in its sole option and discretion, may deem to be appropriate.

7. **Assignment or Transfer of Loan Commitment.** This Loan Commitment may not be assigned or transferred without the prior written consent of MHFA, which consent may be withheld at the sole option and discretion of the MHFA.

8. **Term of Loan Commitment.** This Loan Commitment shall terminate on the earlier of (i) the closing of the POHP Loan, or (ii) the 26th day of December, 2019, unless this Loan Commitment is renewed or extended by MHFA in writing.

9. **Effectiveness of Loan Commitment.** This Loan Commitment shall not become effective unless Borrower returns two (2) duplicate originals hereof to MHFA, with acceptance endorsed thereon by the signature of the party or parties indicated below, or their authorized agent, no later than the 21st day of December, 2018.

10. **Mutual Enforceability of Loan Commitment.** This Loan Commitment shall be mutually enforceable by either party hereto, and either party hereto may apply to the appropriate

Minnesota state court for specific performance of the provisions and requirements contained herein, and for such other relief as may be appropriate, since the injury to the MHFA arising from Borrower's failure to comply with the provisions and requirements contained herein would be irreparable and the amount of damage would be difficult to ascertain.

11. Additional or Special Conditions Necessary for Closing. In addition to any other conditions precedent contained in this Loan Commitment and as additional conditions precedent to the closing of the POHP Loan the following additional and special conditions must be satisfied:

A. Closing of the sources identified in the Sources and Uses Worksheet.

B. Prior to commencing rehabilitation, MHFA must have reviewed and approved the Plans and Specs created for the Development.

C. During rehabilitation:

(1) Unless and to the extent waived in writing by MHFA (i) all changes in Plans and Specs, or orders for extra rehabilitation, or changes by altering or adding to such rehabilitation, must be approved by Borrower and MHFA and shall be submitted to and placed on file with MHFA, and (ii) any changes to the Plans and Specs or orders for extra rehabilitation, or changes by altering or adding to or eliminating any of the rehabilitation that will result in any net construction cost increase or decrease or will change the design concept may be effected only with the prior written approval of MHFA, and (iii) no changes, additions, or alterations may be made to the Plans and Specs without the prior written approval of MHFA. MHFA shall make available an authorized officer to review and approve requests for such changes, additions or alterations during normal working hours. Approval of MHFA to such changes shall not be unreasonably withheld.

(2) MHFA must be afforded the opportunity to inspect the Development not less than once per month during the rehabilitation period and shall be given not less than 7 days' prior written notice of each construction draw.

(3) Copies of all executed AIA G703 contractor's pay requests (or other MHFA-approved format) shall be submitted to and placed on file with MHFA.

D. Prior to closing of the Loan:

(1) Borrower shall provide to MHFA certificate(s) of substantial completion, in a format approved by MHFA.

(2) Borrower shall provide to MHFA a certificate of the architect for the Development that to the best of his or her knowledge, information and belief, and on the basis of his or her observations and inspections, the rehabilitation has been completed in accordance with the terms and conditions of the Plans and Specs.

MINNESOTA HOUSING FINANCE AGENCY

By:



Wesley J. Butler

Assistant Commissioner, Multifamily

Executed and issued on the 19 day of December,
2018.

17th This Loan Commitment and the requirements contained therein are accepted this
day of December, 2018.

BORROWER:

**ST. CLOUD HOUSING AND
REDEVELOPMENT AUTHORITY**

a public body corporate and politic of the State of
Minnesota

By:



Louise Reis

Executive Director

EXHIBIT A

LEGAL DESCRIPTION

Part of Lots One (1), Two (2), Three (3), and Four (4) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right of way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 220.56 feet Southeasterly right of way line of Great Northern Railway which is point of beginning; thence deflect $180^{\circ} 00'$ on reversed course last mentioned 183.38 feet to point North right of way line of First Street North extended; thence deflect left $84^{\circ} 33'$ on said right of way line of First Street North extended 198.89 feet; thence deflect left $35^{\circ} 48'$ a distance of 29 feet, more or less, to shoreline of Mississippi River; thence Northwesterly on said shoreline to Southeasterly right of way line of Great Northern Railway; thence Southwesterly on said right of way line to point of beginning.

And

Parts of Lots One (1), Two (2), and Three (3) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at a point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right-of-way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 37.18 feet for point of beginning; thence continue on last mentioned course 183.38 feet to Southeasterly right-of-way of Great Northern Railroad; thence Southwesterly on said Southeasterly right-of-way line to its intersection with Northeasterly right-of-way line of Fifth Avenue North; thence Southeasterly on said Northeasterly right-of-way line 147.58 feet to Northwesterly right-of-way line of First Street North; thence Northeasterly on said Northwesterly right-of-way line of First Street North and said right of line extended 183.75 feet to point of beginning.

EXHIBIT B

POHP SOURCES AND USES WORKSHEET

Empire Apartments, St. Cloud
POHP - PH Program
(Public Housing) Loan Commitment – End Loan
(Ver. 8/21/2015)

MHFA Dev. #7613
11/6/2018

EXHIBIT C
(POHP Mortgage)

Empire Apartments, St. Cloud
POHP - PH Program
(Public Housing) Loan Commitment – End Loan
(Ver. 8/21/2015)

MHFA Dev. #7613
11/6/2018

EXHIBIT D

(G.O. Bonds Declaration)

Empire Apartments, St. Cloud
POHP - PH Program
(Public Housing) Loan Commitment – End Loan
(Ver. 8/21/2015)

MHFA Dev. #7613
11/6/2018

EXHIBIT E
(POHP Declaration)

Empire Apartments, St. Cloud
POHP - PH Program
(Public Housing) Loan Commitment – End Loan
(Ver. 8/21/2015)

MHFA Dev. #7613
11/6/2018

Exhibit B

SOURCES and USES WORKSHEET

DEVELOPMENT COSTS		
	TOTAL COSTS	NOTES
REHABILITATION CONSTRUCTION		
Scope of Work Cost Estimate	\$ 454,970	Construction Contract Amount
Other		
Other		
Rehabilitation Subtotal	\$ 454,970	
Construction Contingency (4%)	\$ 18,199	
Total Construction Costs	\$ 473,169	
ENVIRONMENTAL ABATEMENT		
Soil Abatement		
Radon/Soil Vapor Abatement		
Mold Abatement		
Lead Abatement		
Asbestos Abatement	\$ 1,158	
Other		
Abatement Total	\$ 1,158	
OTHER COSTS		
Architect/Engineering Fees	\$ 7,400	Elevator Consultant
Processing Agency/Other Consultant	\$ 3,000	Prevailing Wage/Davis Bacon Consultant
Environmental Reports		
Other Reports	\$ 150	O&E Report
Other Local Fees		
Legal Fees		
Financing Costs		
Other Fees	\$ 92	Document Record Fees
Other Fees		
Other Costs Total	\$ 10,642	
Total Development Cost	\$ 484,969	

SOURCES		
	AMOUNT	TERM/RATE/NOTES
POHP Request	\$ 295,831	
Energy Rebates		
PHA Capital Fund Budget	\$ 189,138	
PHA Operating Budget		
Other (Identify)		
Other (Identify)		
Total Sources of Funds	\$ 484,969	
Total Non-POHP Funds	\$ 189,138	
Percentage of TDC	39%	

**MINNESOTA HOUSING FINANCE AGENCY
PUBLICLY OWNED HOUSING PROGRAM
(PUBLIC HOUSING)**

DEFERRED LOAN REPAYMENT AGREEMENT

EMPIRE APARTMENTS, ST. CLOUD

Empire Apartments, St. Cloud
PHP - PH Program
Deferred Loan Repayment Agreement-
Unsecured
(Ver. 3/22/2018)

MHFA Dev. #7613
11/6/2018

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EXHIBIT C

**Minnesota Housing Finance Agency
Publicly Owned Housing Program
(Public Housing)**

DEFERRED LOAN REPAYMENT AGREEMENT

THIS DEFERRED LOAN REPAYMENT AGREEMENT (the "Agreement"), is effective as of the ____ day of _____, 2018, even though one or more of the parties hereto may execute this Agreement at some later date, and is made and entered into by and between St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota ("Borrower"), having its principal place of business located at 1225 West St. Germain Street, St. Cloud, MN 56301, and the Minnesota Housing Finance Agency ("MHFA"), a public body corporate and politic of the State of Minnesota, having its principal place of business located at 400 Wabasha Street North, Suite 400, St. Paul, MN 55102-1109.

RECITALS

A. Pursuant to 2014 Minn. Laws Ch. 294, Section 23, Minn. Stat. § 462A.202 as may be amended, modified, or replaced from time to time, and the MHFA rules and regulations thereunder (hereinafter cumulatively referred to as the "Act"), the Minnesota legislature authorized MHFA to make loans for the rehabilitation of Public Housing (as defined herein) to serve low and moderate income persons and households; and

B. Pursuant to the Act, MHFA is authorized to make Publicly Owned Housing Program loans ("POHP Loan").

C. Borrower has applied to MHFA for a POHP Loan and MHFA has made a no-interest POHP Loan to Borrower.

D. The monies used to fund the POHP Loan that MHFA has made to Borrower are the proceeds of state general obligation bonds authorized to be issued under Article XI, § 5(a) of the Minnesota Constitution; and

E. In accordance with the provisions of the Act, Borrower and MHFA desire to set forth herein the terms and conditions associated with the POHP Loan.

NOW, THEREFORE, in consideration of the loan described herein, and in accordance with the provisions of the Act, and all other applicable laws, the parties hereto do hereby agree as follows:

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Article I DEFINITIONS

Section 1.01 **Defined Terms.** As used in this Agreement the following terms shall, unless the contents hereof specifically indicates otherwise, have the meanings set out respectively after each such term (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Act” cumulatively means 2014 Minn. Laws Ch. 294, Section 23 and Minn. Stat. § 462A.202 as may be amended, modified, or replaced from time to time, and the MHFA rules and regulations thereunder.

“Agreement” means this Minnesota Housing Finance Agency Publicly Owned Housing Program (Public Housing) Deferred Loan Repayment Agreement.

“Borrower” means St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota.

“Buildings” means any and all structures owned or acquired by Borrower that are located at 54 4th Avenue North, St. Cloud, MN 56303, and which are rehabilitated with proceeds of the POHP Loan.

“Commissioner of MMB” means the Commissioner of Minnesota Management and Budget for the State of Minnesota, or his or her designated representative.

“Commissioner's Order” means the “Fourth Order Amending Order of the Commissioner of Finance Relating to Use and Sale of State Bond Financed Property”, dated August 26, 2010.

“Development” means the Buildings.

“Eligible Tenants” means persons and families who are residents of Public Housing or whose incomes at the time of initial occupancy do not exceed the maximum household income as determined by HUD.

“Event(s) of Default” means those events delineated in Section 7.01 herein.

“Fair Market Value” means (i) the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal which assumes that any and all mortgage liens or encumbrances on the property being sold that negatively affect the value of such property will be released, or (ii) the price bid by a purchaser under a public bid procedure after reasonable public notice with the proviso that any and all

mortgage liens or encumbrances on the property being sold that negatively affect the value of such property will be released at the time of acquisition by such purchaser.

"G.O. Bonds" means that portion of the state general obligation bonds, issued under the authority granted in Article XI, § 5(a) of the Minnesota Constitution, the proceeds of which are used to fund the POHP Loan, or any bonds issued to refund or replace such bonds.

"G.O. Bonds Compliance Legislation" means Minn. Stat. § 16A.695 and those orders and rules thereunder, as such may be amended, modified or replaced from time to time.

"G.O. Bonds Declaration" means that certain document declaring that Borrower's interest in the Development is subject to restrictions imposed by the G.O. Bonds Compliance Legislation and this Agreement as set forth in **Attachment I** attached hereto and incorporated herein by reference.

"HUD" means the U.S. Department of Housing and Urban Development, the federal agency under Annual Contributions Contract with the Borrower to provide capital and operating assistance to the Borrower's public housing projects.

"IRS Code" means the Internal Revenue Code of 1986, as such may be amended, modified or replaced from time to time, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

"MHFA" means the Minnesota Housing Finance Agency, a public body corporate and politic of the State of Minnesota.

"POHP Declaration" means that certain document imposing income and occupancy requirements on the Development as set forth in **Attachment II** attached hereto and incorporated herein by reference.

"POHP Loan" means the Publicly Owned Housing Program deferred zero percent (0%) interest rate loan from MHFA to Borrower in the amount of \$325,000.00.

"Public Housing" means housing for low-income persons and households financed by the federal government through HUD and owned and operated by public housing authorities and agencies formed by cities and counties.

"State Bond Financed Property" means property acquired or bettered in whole or in part with the proceeds of state general obligation bonds authorized to be issued under Article XI, § 5(a) of the Minnesota Constitution and subject to the requirements thereto and to the requirements of the G. O. Bonds Compliance Legislation.

Article II DEFERRED LOAN

Section 2.01 Loan of Monies. Concurrent with the execution of this Agreement by Borrower and delivery thereof to and acceptance thereof by MHFA, MHFA shall make the POHP Loan to Borrower, which such loan shall be repaid in accordance with the provisions contained in Section 2.04 herein.

Section 2.02 Use of Loan Proceeds. Borrower shall use the proceeds of the POHP Loan only for the purposes and permissible expenditures set forth under the Act.

Section 2.03 Construction Contingency. If a portion of the POHP Loan is used for a construction contingency as set forth in the Sources and Uses Worksheet, attached hereto as **Attachment III** and incorporated herein by reference, then this construction contingency shall only be used for development costs that (i) qualify as permissible expenditures under Article XI, § 5 (a) of the Minnesota Constitution and the G.O. Bonds Compliance Legislation and (ii) are pre-approved by MHFA at its sole option and discretion. If, at the completion of construction of the Development, there are unexpended construction contingency funds, or other "cost savings" as described in the Construction Loan Agreement of even date with the date of this Agreement, said funds will not be disbursed to Borrower and the amount of the POHP Loan will be reduced accordingly. In such event this Agreement will be amended to reflect the reduced amount of the POHP Loan.

Section 2.04 Repayment of Loan. Borrower covenants and agrees with MHFA that, subject to Section 2.06, it will repay the entire amount of the POHP Loan to MHFA unless (i) Borrower uses the Development in accordance with the Act and in compliance with the terms and conditions of this Agreement for at least twenty (20) years from the date of this Agreement or (ii) Borrower sells the Development in accordance with Section 4.01 herein, whichever occurs first. If the Development is sold in accordance with Section 4.01 herein, the amount due to be repaid with respect to the POHP Loan shall be the amount required by Minnesota Statutes, Section 462A.202, subdivisions 7(a)(1) and 7(c)(2) in effect as of the date of execution of this Agreement.

Section 2.05 Effect of Loan Repayment. Payment in full of the POHP Loan, whether voluntary or involuntary, shall not cause this Agreement to terminate and all of the provisions contained herein, except for those provisions herein relating to the repayment of the POHP Loan, shall remain in full force and effect until such time as this Agreement is terminated as provided in Section 8.01 herein.

Section 2.06 Forgiveness of Loan. If no Event of Default has occurred within twenty (20) years from the date of this Agreement, then upon commencement of the twenty-first (21st) year after the date of this Agreement, the POHP Loan shall be deemed to be forgiven and extinguished and no repayment by Borrower shall be required.

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Section 2.07 **Effect of Forgiveness of Loan.** Forgiveness of the POHP Loan shall not cause this Agreement to terminate, and all of the provisions contained herein, except for those provisions herein relating to the repayment of the POHP Loan, shall remain in full force and effect until such time as this Agreement is terminated as provided in Section 8.01 herein.

Article III OWNERSHIP AND OPERATION OF THE PROPERTY

Section 3.01 **Ownership Interest in the Development.** Borrower covenants with and warrants to MHFA that Borrower possesses a fee simple interest in the real estate.

Section 3.02 **Operation and Use of the Development.** In addition to any other provisions contained herein, the following provisions shall also apply to Borrower's ownership, operation, and use of the Development:

A. Borrower shall operate and manage the Development to provide housing for Eligible Tenants in accordance with the provisions of the Act.

B. Borrower shall obtain and continue in place all applicable licenses, permits and bonds required for the operation of the Development in accordance with the provisions contained in this Section 3.02.

C. Borrower shall directly operate, maintain, and manage the Development in compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Development.

D. Borrower covenants with and represents and warrants to MHFA that (i) it has the ability and a plan to fund such operation of the Development, and (ii) it will demonstrate such ability by way of a plan that it will submit to MHFA.

E. Borrower shall not, except in accordance with the provisions contained in herein, sell, transfer, lease, encumber or otherwise convey, in any way or manner, whether voluntary, involuntary, or by action of law, any of its interest in the Development, or amend or modify any agreement relating to such sale which had previously been consented to in writing by both MHFA and the Commissioner of MMB, without the prior written consent of both MHFA and the Commissioner of MMB.

F. Borrower shall annually supply to MHFA information on a form provided by MHFA and at a time requested by MHFA, certifying that the Development and its tenants are meeting the requirements of the Act.

Section 3.03 Operating Assurance. It is understood and agreed by Borrower that this Agreement constitutes an assurance and undertaking by Borrower that Borrower shall operate the Development in the manner specified herein; and all operating expenses shall be paid during the life of this Agreement and that the Development, accommodations, grounds and equipment appurtenant thereto, shall be maintained in good repair and condition.

Section 3.04 Insurance. Borrower will, at its own expense, (a) maintain comprehensive general liability insurance on the Development that names MHFA as an additional named insured, and if Borrower obtains excess comprehensive general liability insurance for the Development then MHFA shall also be named additional named insured, and (b) keep the improvements now existing or hereafter erected on the Development insured against loss by fire and such other hazards, casualties, and contingencies as may be specified from time to time by MHFA. Such insurance shall (i) be evidenced by standard form insurance policies, (ii) be in such amounts as may be required by MHFA, (iii) be endorsed with a standard MHFA clause with loss payable to MHFA, (iv) have a replacement cost endorsement, and (v) be deposited with MHFA, and in default thereof MHFA shall have the right to effect insurance at the expense of Borrower. In the event of loss, Borrower shall give prompt notice by mail to the insurance carrier and MHFA, and MHFA may make proof of loss if not made promptly by Borrower. MHFA is hereby authorized in the event of loss to compromise and settle all loss claims on said policy on such terms, as it deems appropriate. Borrower shall promptly furnish to MHFA a copy of any proof of loss given to the insurance carrier.

If the Development, or any part thereof, shall be damaged by fire or other insured hazard, the amounts paid by any insurance company shall be paid to MHFA to apply to the amount due, if any, on the POHP Loan or, at the option of MHFA, released for the repairing or rebuilding of the Development. All policies of insurance and any and all refunds of unearned premiums are hereby assigned to MHFA as additional security for the POHP Loan and will be deposited into the insurance escrow account as described in Section 3.07 herein. Notwithstanding anything to the contrary contained in this Section 3.04, or in Section 10.01 relating to condemnations, MHFA agrees that, for the term of this Agreement, in the event of a loss by fire or other hazard or a partial taking in condemnation permitting repair or restoration of the Development, then MHFA shall, provided that the amount of condemnation or insurance proceeds plus any other monies that Borrower deposits with MHFA are sufficient, in MHFA's sole discretion, to fully repair or restore the Development to its condition immediately prior to such loss or partial taking, authorize the release of such insurance proceeds for the repair or restoration of the Development.

As loss payee under the insurance required herein, MHFA agrees to and will assign or pay over to Borrower all insurance proceeds it receives so that Borrower can comply with the requirements that this Section 3.04 imposes upon Borrower as to the use of such insurance proceeds.

Section 3.05 Borrower's Duty to Pay Taxes. Borrower shall pay, before a fine or penalty might attach for nonpayment thereof, all taxes, assessments and all other charges

whatsoever levied upon or assessed, placed or made against the Development. Borrower shall, upon written request by MHFA, promptly deliver to MHFA any receipts for the payment of such charges; provided, however, that Borrower need not pay any such taxes, assessments or other charges so long as Borrower shall in good faith contest such taxes, assessments or other charges by appropriate legal proceedings effective to prevent the enforcement of any lien created by such failure to pay, and to prevent the loss of any of the Development. Borrower likewise will pay all taxes, assessments, and other charges, levied upon or assessed, placed or made against the Development.

Section 3.06 Borrower's Duty to Pay Utilities. Borrower will pay all charges made by utility companies, public or private, for electricity, gas, heat, water, or sewer, furnished to or used in connection with the Development or any part thereof and, upon written request by MHFA, will promptly deliver to MHFA receipts for the payment of such charges; provided, however, that Borrower need not pay any such charges so long as Borrower shall in good faith contest such charges by appropriate legal proceedings effective to prevent the enforcement of any lien created by such failure to pay, and to prevent the loss of any of the Development.

Section 3.07 Account for Taxes, Insurance and Other Charges. In order to more fully protect the security of this Agreement, Borrower shall establish and maintain an account in sums necessary to pay premiums that will next become due and payable on the policy or policies of liability, fire and other property insurance covering the property, plus water rates, taxes, and assessments next due on the property. Borrower hereby expressly acknowledges its liability under this Agreement to pay all insurance premiums, taxes, special assessments and other lawful government charges with respect to the property before they become delinquent.

Article IV SALE OF DEVELOPMENT

Section 4.01 Sale of Development. Borrower's interest in the Development may not and shall not be sold by Borrower at any time while this Agreement is in effect unless: (i) Borrower determines, by official action, that it is no longer usable or needed to provide Public Housing for Eligible Tenants in accordance with the provisions of the Act, (ii) the sale is made as authorized by law, (iii) the sale is for Fair Market Value using the public sale method, and (iv) Borrower has obtained the written consent of the Commissioner of MMB. Upon the sale of Borrower's interest in the Development the net proceeds thereof shall be disbursed in accordance with Sections 2.04 and 2.06 herein and Minn. Stat. § 462A.202, subd.7. In the event of a sale under Section 4.02 herein, Borrower is not required to repay the POHP Loan provided that it has satisfied the requirements contained in Section 2.06 herein.

Section 4.02 Foreclosure. The acquisition of Borrower's interest in the Development as a result of the foreclosure of a lien or receipt of a deed-in-lieu of foreclosure shall not be considered a sale under Section 4.01 provided that the entity that obtains said interest may not and shall not operate the Development for any purpose other than Public Housing for Eligible

Tenants in accordance with the provisions of the Act during the time period such entity holds such interest and such entity shall use its best efforts to promptly market and sell such acquired interest to a third party for Fair Market Value. The ultimate sale or disposition of such acquired interest shall be deemed to be a sale under the G. O. Compliance Legislation upon the conclusion of such sale and the disbursement of the proceeds thereof.

Section 4.03 Notice of Nonuse or Proposed Sale, Transfer, Conveyance, or Encumbrance. Borrower, or its successors and assigns, shall promptly give MHFA notice (i) if the Development, or any portion thereof, ceases to be used to provide Public Housing for Eligible Tenants in accordance with the provisions of the Act and (ii) of any proposed sale, transfer, lease, encumbrance, or other proposed conveyance of any part of Borrower's interest in the Development no matter when such event occurs. Borrower shall not sell, transfer, lease, encumber or otherwise convey any of its interest in the Development without the express written consent of MHFA.

Article V

COMPLIANCE WITH G.O. BONDS COMPLIANCE LEGISLATION, OR COMMISSIONER'S ORDER AND OTHER LAW

Section 5.01 State Bond Financed Property. The parties hereto acknowledge and agree that Borrower's interest in the Development is "state bond financed property", as such term is used in the G.O. Bonds Compliance Legislation and the Commissioner's Order, and that the provisions contained in such statute, order and Minn. Stat. § 462A.202 apply to Borrower's interest in the Development.

Section 5.02 Borrower Declaration. As the holder of a fee simple interest in the real estate and the sole owner of the Buildings, Borrower hereby declares that such interest in the Development (i) are bond financed property within the meaning of the G.O. Bonds Compliance Legislation and the Commissioner's Order, (ii) are subject to the encumbrance created and requirements imposed by the G.O. Bonds Compliance Legislation, the Commissioner's Order, the G.O. Bonds Declaration and this Agreement, and (iii) cannot be sold or otherwise disposed of without the written consent of the Commissioner of MMB, and such interests shall remain subject to such encumbrances and requirements until they are released therefrom by way of a written release in recordable form signed by the Commissioner of MMB that is filed in the Office of the County Recorder or Registrar of Titles in and for the county in which the Development is situated.

Section 5.03 Preservation of Tax Exempt Status. In order to preserve the tax-exempt status of the G.O. Bonds, Borrower agrees that during the time period that any G.O. Bonds are outstanding and unpaid:

A. It will not use the Development, or use or invest any proceeds of the POHP Loan or any other sums treated as "bond proceeds" under § 148 of the IRS Code including

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"investment proceeds," "invested sinking funds," and "replacement proceeds," in such a manner as to cause the G.O. Bonds to be classified as "arbitrage bonds" under § 148 of the IRS Code.

B. It will deposit into and hold all of the proceeds of the POHP Loan that it receives under this Agreement in a segregated non-interest bearing account until such funds are used for payments for the Development.

C. It will, upon written request, provide the Commissioner of MMB any and all information required to satisfy the informational requirements set forth in the IRS Code including, but not limited to, §§ 103 and 148 thereof with respect to the G.O. Bonds.

D. It will, upon the occurrence of any act or omission by Borrower that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner of MMB, take such actions and furnish such documents as the Commissioner of MMB determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include either (i) compliance with proceedings intended to classify the G.O. Bonds as a "qualified bond" within the meaning of § 141(e) of the Code, or (ii) compliance with Code provisions, regulations, or revenue procedures which amend or supersede the foregoing.

E. It will not otherwise use any of the proceeds of the POHP Loan, including earnings thereon, if any, or take, or permit to cause to be taken, any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, nor otherwise omit, take or cause to be taken any action necessary to maintain such tax exempt status, and if it should take, permit, omit to take, or cause to be taken, as appropriate, any such action, it shall take all lawful actions necessary to rescind or correct such actions or omissions, promptly upon having knowledge thereof.

Section 5.04 Changes to Act, the G.O. Bonds Compliance Legislation or the Commissioner's Order. In the event that the Act, the G.O. Bonds Compliance Legislation, the Commissioner's Order or Minn. Stat. § 462A.202 are amended or modified in a manner which reduces any requirement imposed against Borrower, then upon written request by Borrower, MHFA will enter into and execute any and all amendments hereof or other documents that are necessary to implement the provisions contained in such amendment or modification.

Section 5.05 Use of G.O. Bond Proceeds. Borrower acknowledges and agrees that no portion of the POHP Loan proceeds shall be used to fund, in whole or in part, any contingency account, reserve account, expense account, or security deposit account including, but not limited to, those accounts described in Article IX hereinbelow.

Article VI REPRESENTATIONS AND WARRANTIES

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Section 6.01 Borrower Representations and Warranties. Borrower covenants with, represents, and warrants to MHFA as follows:

- A. It is eligible for the POHP Loan under the provisions of the Act.
- B. It is a "city" or a "county" as such terms are used in the Act, and has a public housing assessment system rating of 80 or above issued by the Minnesota Department of Housing and Urban Development on the date of this Agreement.
- C. It has the power to buy and sell land and to mortgage and otherwise encumber land.
- D. It has legal authority to enter into, execute, and deliver this Agreement and has taken all actions necessary and incident to its execution and delivery of thereof.
- E. This Agreement is a legal, valid and binding obligation of Borrower enforceable against Borrower in accordance with the provisions contained herein.
- F. No consent, approval, order or authorization of or registration, declaration or filing with any governmental authority is required in connection with Borrower's execution and delivery of this Agreement or the carrying out or performance of any of the transactions required or contemplated thereby.
- G. It is not in violation of any provisions of its organizational documents, or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to its knowledge threatened, before or by any judicial body or governmental authority against or effecting it, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority that would impair its ability to enter into this Agreement or to perform any of the acts required of it herein.
- H. Neither the execution and delivery of this Agreement, nor compliance with any of the provisions contained herein is prevented by, is a breach of, or will result in a breach, of any provision of any agreement or document to which it is now a party or by which it is bound.
- I. It will comply with all of the terms, conditions, provisions, covenants, requirements, and/or warranties contained in this Agreement, the Act, the G.O. Bonds Compliance Legislation, and the Commissioner's Order.
- J. It has made no material false statement, or misstatement of fact, in connection with its application for or receipt of the POHP Loan and all of the information supplied to MHFA in conjunction with such loan is true and correct.

K. Its contemplated use of the Development will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

L. All applicable licenses, permits and bonds required for the performance and completion of the Development have been, or will be, obtained.

M. All applicable licenses, permits and bonds required for the operation of the Development in the manner specified herein have been, or will be, obtained.

N. It will directly operate, maintain, and manage the Development in compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Development.

O. It will supply, or cause to be supplied, whatever funds are needed to complete and fully pay for the Development above and beyond the proceeds of the POHP Loan.

P. If applicable, it will complete the Development, or cause the Development to be completed, substantially in accordance with the construction contract that is hereby incorporated by reference.

Q. It will require and cause any and all of its contractors to comply with all rules, regulations, ordinances, and laws bearing on its conduct of work on the Development.

R. It will not, without the prior written consent of MHFA, sell, transfer, lease, encumber, or convey any part of Borrower's interest in the Development.

S. It will not, without the prior written consent of MHFA, allow the Development, or any portion thereof, to cease to be used to provide Public Housing for Eligible Tenants in accordance with the provisions of the Act.

T. It will furnish to MHFA, as soon as possible and in any event within seven (7) calendar days after Borrower has obtained knowledge of the occurrence of each Event of Default or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default and the action which Borrower proposes to take with respect thereto.

U. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested in writing by either MHFA or the Commissioner of MMB.

V. It will fully comply with all of the terms and conditions contained in the POHP Declaration.

W. By entering into any agreement with MHFA, accepting any award of funds from MHFA, or otherwise conducting any business with MHFA, Borrower represents that Borrower, or any principal of Borrower, has not been suspended from doing business with MHFA pursuant to the Minnesota Housing Finance Agency Board of Directors Participant Suspension Policy. A principal is defined as: (a) an officer, director, owner, partner, principal investigator, or other person within an organization or entity doing business with MHFA with management or supervisory responsibilities; or (b) a consultant or other person, who: (1) is in a position to handle MHFA funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to be performed under contract with MHFA. Please refer to MHFA's website or contact MHFA for a list of all suspended individuals and organizations.

Section 6.02 MHFA Representations and Warranties. MHFA covenants with, represents, and warrants to Borrower as follows:

- A. It is a public body corporate and politic of the State of Minnesota.
- B. It has legal authority to enter into, execute, and deliver this Agreement and has taken all actions necessary and incident to its execution and delivery of this Agreement.
- C. This Agreement is the legal, valid and binding obligation of MHFA enforceable against MHFA in accordance with the provisions contained herein.
- D. No consent, approval, order or authorization of or registration, declaration or filing with any governmental authority is required in connection with MHFA's execution and delivery of this Agreement or the carrying out or performance of any of the transactions required or contemplated thereby.
- E. It is not in violation of any provisions of its organizational documents, or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to its knowledge threatened, before or by any judicial body or governmental authority against or effecting it, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority that would impair its ability to enter into this Agreement or to perform any of the acts required of it herein.
- F. Neither the execution and delivery of this Agreement, nor compliance with any of the provisions contained herein, is a breach of, or will result in a breach, of any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.

Section 6.03 **Borrower Environmental Representations and Warranties.**

A. Representations and Warranties as to Hazardous Materials. Borrower represents and warrants to MHFA that to the best of Borrower's knowledge and except as disclosed in environmental reports delivered to MHFA prior to the date hereof, (i) there is not present in or under the Land or any improvements located thereon (the "Improvements") any asbestos, urea-formaldehyde foamed-in-place insulation, polychlorinated biphenyls, petroleum crude oil, any fraction or petroleum or crude oil, petroleum products, heating oil, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, mixtures of natural gas and synthetic gas or any other hazardous substances or materials including, but not limited to, hazardous substances or materials under the Comprehensive Environmental Response, Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act, the Resource Conservation and Recovery Act, the Minnesota Environmental Response and Liability Act, or any other federal, state or local statute, regulation, code or ordinance ("Hazardous Materials"), (ii) all reports and notices required by any statute, regulation, code or ordinance referred to in (i) above have been duly made, and all permits, licenses and authorizations which are required by any statute, regulation, code or ordinance referred to in (i) above have been obtained and are in full force and effect, (iii) the Land and the Improvements have not in the past been used, are not presently being used, and will not in the future (for so long as Borrower owns the same) be used for the handling, storage, transportation, release or disposal of any Hazardous Materials, and (iv) no investigation, administrative proceeding, limitation or other action has been proposed, threatened or brought alleging the presence, handling, storage, transportation, release or disposal of Hazardous Materials in or under the Land or the Improvements.

B. Hazardous Materials Report. Unless previously delivered by Borrower, MHFA, in its sole discretion, may obtain, at Borrower's expense, a report from a reputable environmental consultant of MHFA's choice as to the presence of any Hazardous Materials in, on or under the Land or the Improvements and as to whether the Land or the Improvements have been or are presently being used for the handling, storage, transportation, release or disposal of Hazardous Materials. If such report indicates the presence of Hazardous Materials or any past or present use, handling, storage, transportation, release or disposal of Hazardous Materials, then MHFA may require that violation of any statute, regulation, code or ordinance be remedied and/or that Borrower obtain any necessary environmental permits.

C. Legal Proceedings and Remedial Actions as to Hazardous Materials. Borrower shall immediately notify MHFA, in writing, of any investigation, administrative proceeding, litigation or other action proposed, threatened or brought alleging the presence, handling, storage, transportation, release or disposal of Hazardous Materials in or under the Land or the Improvements. MHFA shall have the right, but not the obligation, to join and participate in any such investigation, administrative proceeding, litigation or other action and

to have all of its expenses and legal fees (including attorney's fees) in connection therewith paid by Borrower.

Article VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01 Event(s) of Default. The following events shall, unless waived in writing by MHFA, constitute an Event of Default upon either MHFA or the Commissioner of MMB giving Borrower written notice of such event, and Borrower's failure to cure such event within thirty (30) days of receiving such notice.

A. If Borrower fails to fully comply with any provision of, or any requirement imposed by, this Agreement.

B. If Borrower fails to fully comply with any provision of, or any requirement imposed by, the Act, the G.O. Bonds Compliance Legislation, and the Commissioner's Order.

C. If Borrower fails to fully comply with any provision of, or any requirement imposed by, the G.O. Bonds Declaration.

D. If Borrower fails to fully comply with any provision of, or any requirement imposed by, the POHP Declaration.

E. If any representation, covenant, or warranty made by Borrower in this Agreement, or in any other document furnished pursuant to this Agreement, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

F. If Borrower shall make an assignment for the benefit of its creditors, or shall be dissolved, or shall commit an act of bankruptcy under the United States Bankruptcy Act (as now or hereafter amended), or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall become or be adjudicated bankrupt or insolvent, however defined, or shall file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment, or similar relief under any present or future bankruptcy or insolvency statute, law, or regulation, or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or shall not, within sixty (60) days after the filing of such a petition against it, have the same dismissed or vacated, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of a material part of its properties, or shall not, within sixty (60) days after the appointment (without its consent or acquiescence) of a trustee, receiver, or liquidator of any material part of its properties, have such appointment vacated.

G. If Borrower fails to fully pay any amount of monies due and owing to MHFA under this Agreement within thirty (30) days of demand by MHFA.

H. If Borrower fails to fully comply with any of the applicable public housing provisions or requirements as described in the HUD Public Housing Provisions Rider, attached hereto, and incorporated by reference herein.

Section 7.02 Remedies. Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of MHFA, MHFA or the Commissioner of MMB may enforce any or all of the following remedies:

A. Require the Borrower to pay to MHFA the amount of the POHP Loan balance.

B. Refrain from disbursing any of the proceeds of the POHP Loan, provided, however, MHFA may make such disbursements after the occurrence of an Event of Default without thereby waiving its rights and remedies hereunder.

C. Assert and enforce any remedies they may have in law or equity including, but not limited to, specific performance of the covenants and agreement contained herein, injunctive relief against any violation of such covenants and agreements, or for such other relief as may be appropriate, since the injury to MHFA arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.

D. Unless precluded by law, unpaid monies owed to MHFA under this Agreement which constitute an Event of Default under Section 7.01 above may be taken from or offset against any aids or other monies that Borrower is entitled to receive from the State of Minnesota.

The rights and remedies herein specified are cumulative and not exclusive of any rights or remedies that MHFA or the Commissioner of MMB would otherwise possess.

Article VIII TERMINATION OR MODIFICATION

Section 8.01 Termination of Agreement. This Agreement shall, subject to the provisions contained in this Section 8.01, terminate on the earliest to occur: (i) _____, ___, 20__ or (ii) upon the occurrence of a sale of the Development by Borrower which conforms to all of the provisions contained in Section 4.01 hereinabove. Provided, however, notwithstanding anything to the contrary contained herein, the provisions and requirements contained in Sections 10.02, 10.04, and 10.13 herein shall survive and remain in full force and effect as if contained in a separate document.

Section 8.02 Termination of Loan Obligation and Modification of Loan.
Intentionally omitted.

If all of the POHP Loan has not been disbursed on or before the date that is five (5) years from the effective date of this Agreement, or such later date as Borrower and MHFA may agree to in writing, then MHFA's obligation to continue to fund the POHP Loan shall terminate, and, in such event (i) if none of the POHP Loan has been disbursed by such date then MHFA's obligation to fund any portion thereof shall terminate and this Agreement shall terminate and no longer be of any force or effect, and (ii) if some but not all of the POHP Loan has been disbursed by such date then MHFA shall have no further obligation to provide any additional funding therefore and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the POHP Loan that was actually disbursed as of such date.

**ARTICLE IX
ACCOUNTS AND FUNDS**

Section 9.01 Operating Receipts and Expense Account. Borrower shall, in a bank whose deposits are insured by the Federal Deposit Insurance Corporation (the "FDIC"), establish and maintain, a separate bank account (the "Operating Receipts and Expense Account") for the deposit of the monies of Borrower, with authority to draw thereon for any payment to be made by Borrower to discharge any liabilities or obligations of Borrower incurred in accordance with this Agreement. The Operating Receipts and Expense Account shall be established in Borrower's own name. Borrower shall, upon collection of all receipts from the operation of the Development and from whatever source derived (the "Operating Receipts") forthwith deposit such receipts into the Operating Receipts and Expense Account. Thereafter, on a monthly basis, Borrower shall pay, in a timely manner and out of Operating Receipts of the Development, the Operating Expenses of the Development.

The term "Operating Expenses" shall include, but shall not be limited to, (i) real estate tax and insurance premium escrow payments required of Borrower; (ii) taxes other than those for which an escrow payment is required under this Agreement; (iii) maintenance, fuel, property management, water and sewage, administration, electricity, other utilities, if any, legal and audit fees (subject to such limitations as MHFA may establish from time to time); and (iv) and all other current expenses approved by MHFA, unless other funds for payment are set aside or deferment of payment has been approved by MHFA in writing. Specifically excluded from Operating Expenses are payments of principal and interest under any other loan from any source.

In the event that the Operating Receipts are inadequate from time to time to pay the Operating Expenses, it is understood and agreed that the Borrower is obligated to pay all Operating Expenses as herein provided.

Section 9.02 Security Deposit Account. Borrower shall collect, deposit, and disburse residents' security deposits in accordance with the terms of their respective leases. Residents'

security deposits shall be deposited by Borrower in an interest-bearing account (the "Security Deposit Account"), separate from all other accounts and funds, with a bank or other financial institution whose deposits are insured by the FDIC. Borrower shall be responsible for any loss incurred by the failure to comply with refunding of security deposits with accrued interest to residents as required by Minn. Stat. § 504B.178, as amended from time to time. This account shall be carried in Borrower's name and shall be designated of record "(Name of Development) Security Deposit Account". Borrower shall cause the amount contained in the Security Deposit Account to at all times equal or exceed the aggregate amount of all outstanding obligations with respect to security deposits.

Article X MISCELLANEOUS

Section 10.01. **Condemnation.** Borrower hereby irrevocably assigns to MHFA any award or payment that becomes payable by reason of any taking of the Development, or any part thereof, either temporarily or permanently, in or by condemnation or other eminent domain proceedings, or by reason of sale under threat thereof, or in anticipation of the exercise of the right of condemnation or other eminent domain proceedings. Borrower will file and prosecute in good faith and with due diligence what would otherwise be its claim in any such award or payment, and will cause the same to be collected and paid over to MHFA, and Borrower irrevocably authorizes and empowers MHFA (which power is coupled with an interest and is irrevocable), in the name of Borrower or otherwise, to file, prosecute, settle, or compromise any such claim, and to collect receipt for and retain the same. The proceeds of the award of payment may, after deducting all reasonable costs and expenses that may have been incurred by MHFA in the collection thereof, at the sole discretion of MHFA, be released to Borrower, applied to restoration of the Development, or applied in reduction of the amount due, if any, on the POHP Loan.

Section 10.02 **Record Keeping and Reporting.** Borrower shall maintain books, records, documents and other evidence pertaining to the costs or expenses associated with the operation and management of the Development, the compliance with the requirements contained in this Agreement, the Act, the G.O. Bonds Compliance Legislation, and the Commissioner's Order, and if applicable, the construction of the Development. Upon MHFA's request Borrower shall submit such information to MHFA in the form required by MHFA and shall allow MHFA, auditors for MHFA, and the Legislative Auditor for the State of Minnesota to inspect, audit, copy, or abstract, any and all of its books, records, papers, or other documents relevant to the Development, the operation and/or management of the Development, and use of the proceeds of the POHP Loan.

Borrower shall use generally accepted accounting principles in the maintenance of such books and records, and shall retain all of such books, records, documents and other evidence for a period of six (6) years after the date that this Agreement terminates.

Section 10.03 **Inspection of Development.** Borrower shall, upon reasonable request by MHFA, allow MHFA to inspect the Development.

Section 10.04 **Data Practices.** Borrower agrees, with respect to any data that it possesses regarding the POHP Loan and the Development, to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Chapter 13 of the Minnesota Statutes, as such may be amended, modified or replaced. Borrower further agrees to indemnify, save, and hold the State of Minnesota, its agents and employees, harmless from all claims against MHFA or the State of Minnesota arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act that pertains to the POHP Loan or the operation and/or management of the Development, including legal fees and disbursements paid or incurred to enforce the provisions contained in this Section 10.04.

Section 10.05 **Non-Discrimination (Employment Practices).** Borrower agrees to not engage in discriminatory employment practices in the completion of the Development or operation and/or management of the Development, and it shall, with respect to such activities, fully comply with all of the provisions contained in Minn. Stat. §§ 363A and 181.59, as such may be amended, modified or replaced from time to time.

Section 10.06 **Non-Discrimination (Fair Housing).** Borrower agrees to not exclude any person from the use or occupancy of the Development on the basis of race, creed, color, age, religion, sex, national origin, familial status, marital status, status with regard to public assistance, disability or sexual orientation.

Section 10.07 **Worker's Compensation.** Borrower agrees to fully comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§ 176.181 Subd. 2, and 176.182, as such may be amended, modified or replaced from time to time, in connection with the completion of the Development and operation and/or management of the Development.

Section 10.08 **Antitrust Claims.** Borrower hereby assigns to MHFA any and all claims it may have for over charges as to goods and/or services provided in connection with the completion of the Development and operation and/or management of the Development, which arise under the antitrust laws of the State or of the United States of America.

Section 10.09 **Review of Plans and Cost Estimates.** Borrower agrees to comply with all applicable provisions and requirements contained in Minn. Stat. § 16B.335, as such may be amended, modified or replaced from time to time, for the Development, and in accordance therewith Borrower agrees to comply with the following provisions and requirements if such provisions and requirements are applicable:

A. Borrower shall provide all information that MHFA may reasonably request in order for MHFA to determine that the Development will comply with the provisions and

requirements contained in Minn. Stat. § 16B.335, as such may be amended, modified or replaced from time to time.

B. Prior to its proceeding with design activities for the Development Borrower shall prepare a predesign package and submit it to MHFA for submission to the Commissioner of Administration for the State of Minnesota for review and comment. The predesign package shall be sufficient to define the purpose, scope, cost, and projected schedule for the Development, and shall demonstrate that the Development has been analyzed according to appropriate space and needs standards. Any substantial changes to such predesign package shall be submitted to MHFA for submission to the Commissioner of Administration for the State of Minnesota for review and comment.

C. Borrower shall not prepare final plans and specifications for the Development until it has prepared a program plan and cost estimates for all elements necessary to complete the Development and it has been presented to the Chairs of the Minnesota State Senate Finance Committee and Minnesota House of Representatives Ways and Means Committee, the Chairs have made their recommendations, and the Chair of the Minnesota House of Representatives Capital Investment Committee has been so notified. The program plan and cost estimates shall note any significant changes in the work to be performed on the Development, or in its costs, which have arisen since the appropriation from the legislature for the Development was enacted or which differ from any previous predesign submittal.

D. The Chairs of the Minnesota State Senate Finance Committee, the Minnesota House of Representatives Capital Investment Committee and the Minnesota House of Representatives Ways and Means Committee shall be notified of any significant changes to the program plan and cost estimates referred to in Section 10.09(C) herein.

E. The program plan and cost estimates referred to in Section 10.09(C) herein shall ensure that the Development will comply with all applicable energy conservation standards contained in law, including Minn. Stat. §§ 216C.19 to 216C.20, as such may be amended, modified or replaced from time to time, and all rules adopted thereunder.

F. Both the predesign package referred to in Section 10.09(B) herein and the program plan and cost estimates referred to in Section 10.09(C) herein shall include provisions for cost-effective information technology investments that will enable the entity that will operate and manage the Development to reduce its need for office space, provide more of its services electronically, and decentralize its operations where such provisions are deemed necessary by the Information Policy Office of the Department of Administration for the State of Minnesota.

G. The Development shall be (i) completed in accordance with the program plan and cost estimates referred to in Section 10.09(C) herein, (ii) completed in accordance with

the time schedule contained in the program plan referred to in Section 10.09(C) herein, and (iii) completed within the budgets contained in the cost estimates referred to in Section 10.09(C) herein.

Provided, however, the provisions and requirements contained in Section 10.09 only apply to public lands or buildings or other public improvements of a capital nature, and shall not apply to the demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, rails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the Commissioner of Transportation for the State of Minnesota has entered into an assistance agreement under Minn. Stat. § 457A.04, as such may be amended, modified or replaced from time to time, ice arenas, local government projects with a construction cost of less than \$1,500,000.00, or any other capital project with a construction cost of less than \$750,000.00.

Section 10.10 Prevailing Wages. The entity that receives funds directly from MHFA pursuant to this agreement agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn Stat. §§ 177.41 through 177.44, as they may be amended, modified or replaced from time to time. According to Minn. Stat. §177.42, the term “project” is defined as the “erection, remodeling, or repairing of a public building or other public work financed in whole or in part by state funds”. For projects that are PHA-owned or leased and are assisted with funds for low-income public housing under the U.S. Housing Act of 1937, as amended, the state prevailing wage rate may be preempted by federal regulations (see 24 C.F.R. §§905.308 and 965.101).

Section 10.11 Responsible Contractor Requirement. Borrower agrees that it and its contractors will fully comply with all applicable provisions contained in Minnesota Statutes section 16C.285, as amended.

Section 10.12 Liability. Borrower and MHFA agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and omissions and the results thereof to the extent authorized by law, and they shall not be responsible for the acts and omissions of the other party and the results thereof. The liability of both MHFA and the Commissioner of MMB is governed by the provisions contained in Minn. Stat. § 3.736, as such may be amended, modified or replaced from time to time.

Section 10.13 Indemnification by Borrower. Borrower shall bear all loss, expense (including attorneys' fees), and damage in connection with the completion of the Development or operation and/or management of the Development, and agrees to indemnify and hold harmless MHFA, the Commissioner of MMB, and the State of Minnesota, their agents, servants and employees from all claims, demands and judgments made or recovered against MHFA, the

Commissioner of MMB, and the State of Minnesota, their agents, servants and employees, because of bodily injuries, including death at any time resulting therefrom, or because of damages to property of MHFA, the Commissioner of MMB, or the State of Minnesota or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the completion of the Development or operation and/or management of the Development, whether or not due to any act of omission or commission, including negligence of Borrower, any contractor, and any entity that Borrower has contracted with to perform such acts, or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, gross negligence or breach of statutory duty) of MHFA, the Commissioner of MMB, their employees, servants or agents.

Borrower further agrees to indemnify, save, and hold MHFA, the Commissioner of MMB, and the State of Minnesota, their agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation by Borrower, its officers, employees, or agents, or by any entity that Borrower has contracted with regarding the completion of the Development or operation and/or management of the Development, their officers, employees, or agents, of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce the provisions contained herein.

Borrower's liability hereunder shall not be limited to the extent of insurance carried by or provided by Borrower, or subject to any exclusion from coverage in any insurance policy.

Section 10.14 Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between Borrower, MHFA, or the Commissioner of MMB, nor shall Borrower be considered or deemed to be an agent, representative, or employee of either MHFA, the Commissioner of MMB, or the State of Minnesota in the performance of this Agreement, the completion of the Development, or operation and/or management of the Development.

Borrower represents that it has already or will secure all personnel required for the performance of this Agreement and the completion of the Development and the operation and/or management of the Development. All personnel of Borrower or other persons while engaging in the performance of this Agreement, the completion of the Development, or the operation and/or management of the Development shall not have any contractual relationship with either MHFA, the Commissioner of MMB, or the State of Minnesota and shall not be considered employees of any of such entities. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against Borrower, its officers, agents, contractors, or employees shall in no way be the responsibility of either MHFA, the Commissioner of MMB, or the State of Minnesota. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from either MHFA, the Commissioner of MMB, or the State of Minnesota including,

but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 10.15 Notices. In addition to any notice required under applicable law to be given in another manner, any notices required hereunder shall be in writing, and shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the business address of the party to whom it is directed. Such business address shall be that address specified herein, or such different address as may hereafter be specified, by either party by written notice to the other:

To Borrower:

St. Cloud Housing and Redevelopment Authority
1225 West St. Germain Street
St. Cloud, MN 56301
Attention: _____

To MHFA:

Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
Saint Paul, MN 55102-1109
Attention: Assistant Commissioner, Multifamily

To HUD:

U.S. Department of Housing and Urban Development
920 Second Avenue S., Suite 1300
Minneapolis, MN 55402-4012
Attention: Public Housing Director

Section 10.16 Binding Effect and Assignment or Modification. This Agreement, the G.O. Bonds Declaration, and the POHP Declaration shall be binding upon and inure to the benefit of Borrower and MHFA, and their respective successors and assigns. Provided, however, that neither Borrower nor MHFA may assign any of its rights or obligations under this Agreement, the G.O. Bonds Declaration, or the POHP Declaration without the prior written consent of the other party. No change or modification of the terms or provisions of this Agreement, the G.O. Bonds Declaration, or the POHP Declaration shall be binding on either Borrower or MHFA unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.

Section 10.17 Waiver. Neither the failure by Borrower, MHFA, or the Commissioner of MMB in any one or more instances, to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of Borrower, MHFA, or the Commissioner of MMB to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to

exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either Borrower, MHFA, or the Commissioner of MMB in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 10.18 Entire Agreement. This Agreement, the G.O. Bonds Declaration, the POHP Declaration, and any other document referred to and incorporated therein or herein by reference embody the entire agreement between Borrower and MHFA, and there are no other agreements, either oral or written, between Borrower and MHFA on the subject matter hereof.

Section 10.19 Choice of Law and Venue. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement, the G.O. Bonds Declaration, or the POHP Declaration shall be controlled by and determined in accordance with the laws of the State of Minnesota. Borrower agrees and consents that all legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of St. Paul, County of Ramsey, State of Minnesota.

Section 10.20 Severability. If any term or provision of this Agreement is finally judged by any court to be invalid, the remaining terms and provisions shall remain in full force and effect, and they shall be interpreted, performed, and enforced as if said invalid provision did not appear herein.

Section 10.21 Time of Essence. Time is of the essence with respect to all of the matters contained in this Agreement.

Section 10.22 Counterparts. This 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 one and the same instrument.

Section 10.23 Commissioner of MMB as Third-Party Beneficiary. Borrower agrees and acknowledges that the public program to be operated in conjunction with the Development will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both MHFA and the State of Minnesota, and, therefore, Borrower further agrees and acknowledges that the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

Section 10.24 Statutory References. Any reference to a statute herein shall also be a reference to any and all rules that may be promulgated thereunder.

Section 10.25 HUD Provisions. Borrower and MHFA agree to the terms and conditions contained in the Public Housing Provisions Rider attached hereto and expressly made a part of

this Agreement. If there is a conflict between this Agreement and the Public Housing Provisions Rider, the terms of the Public Housing Provisions Rider shall control.

Section 10.26 **Minnesota Report on Jobs Requirement.** Pursuant to Minnesota Statute 16A.633, the Borrower shall collect, maintain and, upon completion of the Development, provide the information indicated in **Attachment IV** of the Agreement, to the Commissioner. The information must include, but is not limited to, the following: the number and types of jobs created by the Development, whether the jobs are new or retained, where the jobs are located and the pay ranges of the jobs.

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

IN TESTIMONY HEREOF, Borrower has executed this Agreement on the day and year shown immediately below its signature.

BORROWER:

ST. CLOUD HOUSING AND REDEVELOPMENT AUTHORITY

a public body corporate and politic of the State of Minnesota

By: _____
Louise Reis
Executive Director

Executed on the _____ day of _____, 2018.

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Louise Reis, the Executive Director of St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota, on behalf of the authority.

Notary Public

HUD PUBLIC HOUSING PROVISIONS RIDER

TO MINNESOTA HOUSING FINANCE AGENCY PUBLICLY OWNED HOUSING PROGRAM (PUBLIC HOUSING) DEFERRED LOAN REPAYMENT AGREEMENT

Empire Apartments, 54 4th Avenue North, St. Cloud, MN 56303(the "Development")

1. **HUD Preemption Clause:** The parties to this document agree that the inclusion of the provisions in this Rider in all legal documents entered into as part of the transaction approved by HUD, are material requirements and a legal prerequisite and precondition for HUD's approval of this transaction. The parties to this document agree that, to the extent of a conflict between the **FEDERAL PUBLIC HOUSING REQUIREMENTS (all existing HUD legal requirements including, but not limited to, the United States Housing Act of 1937, as amended, the Annual Contributions Contract, as amended (ACC), all applicable Federal regulations, including public housing regulations, executive orders, HUD notices, Declaration of Trust or Declaration of Restrictive Covenants)** and any other requirement to the contrary in any of the legal documents entered into by the parties as part of this transaction, the **FEDERAL PUBLIC HOUSING REQUIREMENTS** shall prevail, control and govern.
2. **Conflicts Provision:** To the extent that any provision in this Agreement and any of the legal documents entered into by the parties as part of this transaction are in conflict with the **FEDERAL PUBLIC HOUSING REQUIREMENTS, which includes all requirements applicable to public housing, including the United States Housing Act of 1937, HUD regulations thereunder (including any HUD-approved waivers of such regulations), the Consolidated Annual Contributions Contract (ACC), as amended and any riders thereto, the HA's standard public housing admissions and occupancy policies adopted in accordance with federal law and described in the HA's approved Public Housing Agency Annual Plan, or any approved amendment to the Plan for non-Qualified PHAs, or the Five-Year Action Plan for Qualified PHAs, or any contrary provisions in the MTW Agreement, and all other pertinent Federal statutory, executive order, and regulatory requirements, as those requirements may be amended from time to time, such FEDERAL PUBLIC HOUSING REQUIREMENTS** shall control and govern in such instances of conflict. To the extent that any provision in this Agreement or any of the legal documents entered into by the parties of this transaction are in conflict with the **FEDERAL PUBLIC HOUSING REQUIREMENTS**, non-conformance with any such provision shall not constitute a default and no remedy, in law, equity, or otherwise, shall apply, including acceleration of, or otherwise calling the amount of any funding associated with this Agreement due and payable. Notwithstanding the foregoing, non-payment of scheduled debt service

payments or real estate taxes (or pilot payments), or the failure to maintain insurance in accordance with the preeminent authority, may constitute a default pursuant to this Agreement.

3. Non-Recourse Provision: Notwithstanding anything to the contrary herein, St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota (the "PHA") and MHFA hereby acknowledge and agree that except for assets of the PHA arising under any program not administered by HUD under the United States Housing Act of 1937, or as otherwise specifically approved in writing by HUD and described below, MHFA acknowledges and agrees that the PHA has no authority to provide MHFA with guarantees, indemnifications, rights of set off, or other pledges involving the assets of any public housing Project (as the term "Project" is defined in the Annual Contributions Contract ("ACC") between the PHA and HUD) or any Housing Choice Voucher (HVC) related assets of the PHA.

- a. Accordingly, MHFA acknowledges this financing is non-course under the Agreement against: (1) any public housing Project of the PHA; (2) any operating receipts (as the term "operating receipts" is defined in the ACC); (3) any HCV receipts of the PHA (3) any Capital Funds of the PHA; or (4) any public housing operating reserve of the PHA reflected in the PHA's annual operating budget and required under the ACC; or (5) any public housing property (real or personal property, including all public housing assets or income); or (6) any disposition proceeds approved pursuant to Section 18 of the United States Housing Act of 1937 (unless explicitly permitted by HUD in the Section 18 approval letter). Should any assets of the PHA be identified at a later date as meeting the criteria set forth above, any guarantees, indemnifications, rights of set off, rights to freeze the funds deposited therein, or other pledges involving those assets will be deemed null, void and unenforceable.
- b. Notwithstanding anything else to the contrary herein, MHFA has recourse to the POHP Loan described in this Agreement and in the amount of \$ 325,000.00.
- c. Notwithstanding anything to the contrary herein, to the extent that the financing proceeds were used for non-public housing purposes, any amounts payable by the PHA under this Agreement may only be paid with non-public housing funds.
- d. Notwithstanding anything in this document to the contrary, the PHA and the MHFA may not cross-default or cross-collateralize the loan made hereunder with any other loan, financial transaction, or asset, without further written approval from HUD.

4. Transfer of HUD funds: The PHA and the MHFA acknowledge that the transfer of public housing development and/or operating assistance from HUD shall not be deemed

to be an assignment of development and/or operating assistance. MHFA acknowledges that MHFA shall not succeed to any rights or benefits of the PHA under the ACC, nor shall it attain any privileges, authorities, interests, or rights in or under the ACC.

5. **Indemnification Provision:** Any PHA indemnification is limited to eligible non-public housing assets (assets not subject to the Declaration of Trust and not acquired or merged with assets acquired with public housing funding under the United States Housing Act of 1937).
6. **No HUD Guarantee:** The obligations created pursuant to the transaction approved by HUD and as included in this Agreement do not constitute a debt or liability of HUD or the United States. The full faith and credit of the United States is not pledged to the payment of the obligations. Payment of the obligations is not guaranteed by HUD or the United States. No action taken by these parties or in these documents shall result in any liability to the federal government.
7. **No Substantive Changes:** Notwithstanding anything in this document to the contrary, no substantive changes to the form of this Agreement that affects HUD's rights or obligations shall be made, in any way that in HUD's opinion may adversely affect the development and or continued maintenance and operation of the Project as public housing without HUD's further written approval. This Agreement shall not be renewed, extended, or the underlying financing increased, other than through the accumulation of interest or the charging of reasonable fees pursuant to the loan documents and then only in the event of default, without further written approval from HUD.
8. **Prepayment:** The PHA may prepay the funding or financing associated with this Agreement at any time without restriction, with any source of funding available to the PHA provided such use of funds is an eligible use for said source of funding. Should the PHA fully repay the funding or financing associated with this Agreement by prepayment or otherwise, any repayment obligations shall terminate; however, the remaining provisions of this Agreement shall remain in full force and effect until such time as this Agreement is terminated as provided in Section 8.01 of the Agreement. In the event of prepayment, the PHA will immediately inform HUD.
9. **Disclaimer of Relationships:** Nothing contained in the ACC or this Agreement nor in any agreement or contract between the parties, nor any act of HUD, the PHA, or any of the parties, will be deemed or construed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD.

Attachment I

GENERAL OBLIGATION BONDS DECLARATION

EXHIBIT C

Empire Apartments, St. Cloud
PHP - PH Program
Deferred Loan Repayment Agreement-
Unsecured
(Ver. 3/22/2018)

MHFA Dev. #7613
11/6/2018

Attachment II
POHP DECLARATION

EXHIBIT C

Empire Apartments, St. Cloud
PHP - PH Program
Deferred Loan Repayment Agreement-
Unsecured
(Ver. 3/22/2018)

MHFA Dev. #7613
11/6/2018

Attachment III

SOURCES AND USES WORKSHEET

EXHIBIT C

Empire Apartments, St. Cloud
PHP - PH Program
Deferred Loan Repayment Agreement-
Unsecured
(Ver. 3/22/2018)

MHFA Dev. #7613
11/6/2018

Attachment IV

JOBS REPORTING ATTACHMENT TO DEFERRED LOAN REPAYMENT AGREEMENT (the "Repayment Agreement") (for developments funded by GO Bonds and Trunk Highway Bonds)

Jobs Reporting.

(a) Pursuant to M.S. Sec. 16A.633, subd. 4, MHFA is required to report the number of jobs created or retained by the Development. To enable MHFA to comply with M.S. Sec. 16A.633, subd. 4, the Borrower is required to report the number of jobs created or retained by the Development to Minnesota Housing Finance Agency ("MHFA") as set forth below.

(b) The Borrower shall require all of its contractors to report the information below to the Borrower. The Borrower shall then report to MHFA. Information can be recorded by MHFA in an Excel document that can be downloaded into the report by Minnesota Management and Budget. Each report must contain the following:

- (1) The name of the Development.
- (2) The MHFA's contract number, if applicable.
- (3) Reporting period. The appropriate biennium is to be selected.
- (4) The MHFA Number. This will complete the next column with MHFA's Name.
- (5) Legal Citation for the Authorization.
- (6) Department ID responsible for the Development.
- (7) The Appropriation for the Development.
- (8) The Appropriation Amount.
- (9) Development Start Date.
- (10) Development Completion Date.
- (11) The County where the Development is located or, if it is located in more than one county, where it is primarily located.

- (12) Funding Source for the Development. The selection will be either Trunk Highway Bonds or General Obligation Bonds.
- (13) Job Type. Jobs should be classified as either (i) engineering/professional, (ii) construction, or (iii) other. Manager and supervisor jobs shall be classified as category (i), (ii) or (iii) based on the nature of the work those individuals spent the majority of their time overseeing.
- (14) Hourly Wages. Jobs should be classified according to the hourly pay ranges below. Overhead or indirect costs or the value of pensions or other benefits should not be included in wages.
- (i) less than \$10.00,
 - (ii) \$10.01 to \$15.00,
 - (iii) \$15.01 to \$20.00,
 - (iv) \$20.01 to \$25.00,
 - (v) \$25.01 to \$30.00,
 - (vi) \$30.01 to \$35.00,
 - (vii) \$35.01 to \$40.00, or
 - (viii) more than \$40.00.
- (15) Jobs.
- a. Jobs should be classified as either (i) jobs created or (ii) jobs retained; they will not be counted as both. A “job created” is a new position created and filled, or an existing unfilled position that is filled, because of the Development. A “job retained” means a job at a specific wage level that existed prior to beginning the Development that would have been lost but for the Development. Only jobs in Minnesota should be counted.
 - b. Jobs should be expressed in “full-time equivalents” (FTE). In calculating an FTE, the number of hours worked during the Reporting Period should be divided by 1,040 (the number of hours representing a full work schedule in a Reporting Period). Jobs should be reported regardless of when the Development or an individual’s employment began or ended. Jobs are to be calculated based on hours worked in the current Reporting Period only, so that reporting is not cumulative.
 - c. Jobs should not be separated into full-time, part-time, temporary, seasonal, etc. Instead, all hours should be totaled and converted into FTEs as indicated above.

(c) Each contractor will report its workforce and the workforce of its subcontractors active during the Reporting Period. This includes employees actively engaged in the Development who work on the jobsite, in the Development office, in the home office or telecommute from home or other alternative office location. This includes, but is not limited to, any engineering personnel, inspectors, sampling and testing technicians, and lab technicians performing work directly in support of the Development. This does not include material suppliers such as steel, culverts, guardrail and tool suppliers. Only hours that relate to time spent on the Development should be reported.

(d) The Borrower must incorporate these reporting requirements into its contracts with its contractors (in part so that contractors can add the requirements to their contracts with subcontractors and impose deadlines on reporting by subcontractors).

(e) To distinguish the jobs reported by contractors that were funded by the Repayment Agreement, the Borrower must multiply the job numbers reported by each contractor in each category above by the percentage of total Development costs funded by the Repayment Agreement (e.g., if the Repayment Agreement was 40% of total Development costs, the Borrower should multiply the jobs numbers given in each category by 40% to arrive at the number of jobs funded by the Repayment Agreement) and it is those numbers that should be reported to MHFA.

FOR USE BY FILING OFFICER ONLY

**Minnesota Housing Finance Agency
Publicly Owned Housing (Public Housing) Program**

GENERAL OBLIGATION BONDS DECLARATION

The undersigned has the following ownership interest in the real property legally described in **Exhibit A**, which is attached hereto and made a part hereof ("Real Property"), and in the buildings, structures and improvements situated thereon, whether currently existing or constructed at some time in the future ("Improvements"):

- A. Fee simple title in the Real Property.
- B. Sole owner of all of the Improvements.

As owner of the Real Property and the Improvements (herein collectively referred to as the ("Restricted Property")) the undersigned does hereby declare that its interest in the Restricted Property is hereby made subject to the following restrictions and encumbrances:

I. The Restricted Property was acquired or bettered, in whole or in part, with the proceeds of State of Minnesota general obligation bonds that were provided through a Minnesota Housing Finance Agency Publicly Owned Housing Program loan, the receipt of which is evidenced by that certain Minnesota Housing Finance Agency Publicly Owned Housing Program Deferred Loan Repayment Agreement by and between the Minnesota Housing Finance Agency and the undersigned for MHFA Development No. D7613, and dated the ____ day of _____, 20___. ("MHFA Repayment Agreement");

II. The Restricted Property is bond-financed property within the meaning of Minn. Stat. § 16A.695 that exists as of the date of this Declaration and, as may subsequently be amended, modified or replaced from time to time;

III. The Restricted Property is subject to the encumbrance created and requirements imposed by Minn. Stat. §§ 16A.695 and 462A.202, until ____ day of _____, 20__, and before this date cannot be sold or otherwise disposed of by the undersigned without the approval

of the Commissioner of Minnesota Management and Budget, which approval must be evidenced by a written statement signed by the Commissioner of Minnesota Management and Budget and attached to the deed or instrument used to sell or otherwise dispose of the undersigned's interest in the Restricted Property;

IV. The Restricted Property shall remain bond-financed property within the meaning of Minn. Stat. §§ 16A.695 and 462A.202, and subject to the restrictions imposed by such statutes until (i) such restrictions have been fully complied with as evidenced by a written approval from the Minnesota Commissioner of Minnesota Management and Budget, or (ii) there is a written release of the Restricted Property from such restrictions signed by the Minnesota Commissioner of Minnesota Management and Budget; and

V. The Restricted Property and the use thereof, by the undersigned is subject to restrictions imposed by, and contained in, the MHFA Repayment Agreement and said restrictions shall continue in full force and effect until the Restricted Property is no longer bond-financed property.

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

DECLARANT:

**ST CLOUD HOUSING AND
REDEVELOPMENT AUTHORITY**

a public body corporate and politic of the
State of Minnesota

By: _____
Louise Reis
Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Louise Reis, the Executive Director of the St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota, on behalf of the authority.

Notary Public

This document was drafted by:
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101-1996

Exhibit A

LEGAL DESCRIPTION

Part of Lots One (1), Two (2), Three (3), and Four (4) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right of way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 220.56 feet Southeasterly right of way line of Great Northern Railway which is point of beginning; thence deflect $180^{\circ} 00'$ on reversed course last mentioned 183.38 feet to point North right of way line of First Street North extended; thence deflect left $84^{\circ} 33'$ on said right of way line of First Street North extended 198.89 feet; thence deflect left $35^{\circ} 48'$ a distance of 29 feet, more or less, to shoreline of Mississippi River; thence Northwesterly on said shoreline to Southeasterly right of way line of Great Northern Railway; thence Southwesterly on said right of way line to point of beginning.

And

Parts of Lots One (1), Two (2), and Three (3) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at a point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right-of-way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 37.18 feet for point of beginning; thence continue on last mentioned course 183.38 feet to Southeasterly right-of-way of Great Northern Railroad; thence Southwesterly on said Southeasterly right-of-way line to its intersection with Northeasterly right-of-way line of Fifth Avenue North; thence Southeasterly on said Northeasterly right-of-way line 147.58 feet to Northwesterly right-of-way line of First Street North; thence Northeasterly on said Northwesterly right-of-way line of First Street North and said right of line extended 183.75 feet to point of beginning.

FOR USE BY FILING OFFICER ONLY

**Minnesota Housing Finance Agency
Publicly Owned Housing (Public Housing) Program**

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION is made as of the _____ day of _____, 20____, by St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota, with its offices located at 1225 West St. Germain Street, St. Cloud, MN 56301 (“Declarant”).

RECITALS:

A. Declarant, as the owner in fee simple of the property located in the City of St. Cloud, County of Stearns, State of Minnesota, described in **Exhibit A** attached to this Declaration and made a part of this Declaration (the “Property”), has applied for a loan from the Minnesota Housing Finance Agency (“Lender” or “MHFA”), and Lender has selected Declarant to receive a loan under Lender’s Publicly Owned Housing (Public Housing) Program (“POHP-PH”) pursuant to Minnesota Statutes, Chapter 462A, and the rules promulgated thereunder, as may be amended, modified, or replaced from time to time (the “Act”), in the original principal amount of \$325,000.00 (the “Loan”) to aid Declarant in the acquisition, construction and/or rehabilitation of and financing on the Property of a housing development (the “Development”, as further defined in this Declaration) pursuant to the Act.

B. The Act, together with any requirements arising from program-specific provisions in state or federal law, regulations, guidebooks, handbooks, or notices, constitutes the “Program”.

Empire Apartments, St. Cloud
POHP-PH Program
Declaration of Covenants
(Ver. 1/31/2018)

D7613
11.8.2018

C. The Program imposes income and rent and occupancy restrictions on the Assisted Units (as defined in this Declaration) and requires that these restrictions remain in place for the minimum period shown on the attached **Addendum** to this Declaration; and

D. Declarant desires to obtain the Loan and to impose on the Development the mutually beneficial covenants, conditions and restrictions set forth in this Declaration.

NOW THEREFORE, Declarant, as fee owner of the Property, and in consideration of the benefits to be derived therefrom by Declarant and its successors and assigns, makes the following declaration of the covenants, restrictions, limitations, conditions and uses (the "Covenants") applicable to the Development.

ARTICLE I

Definitions

As used in this Declaration, the following terms have the following respective meanings:

For the purposes of this Declaration, the definitions set forth above or set forth in the Addendum are incorporated into this Article 1 by reference.

Section 1. **"Assisted Units"** means those units in the Development that are restricted as set forth in the attached **Addendum** to this Declaration.

Section 2. **"Declarant"** means St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota, and any successor or assign that is the owner of the Development from time to time.

Section 3. **"Development"** means the Property and all improvements now or hereafter located thereon, together with all assets of whatsoever nature used in or owned by the business conducted on the Property, identified as MHFA Development No. D7613.

Section 5. **"HUD"** means the United States Department of Housing and Urban Development.

Section 6. **"Income Restrictions"** means the income restrictions as set forth in the attached **Addendum** to this Declaration.

Section 7. **"Occupancy Restrictions"** means those occupancy restrictions as set forth in the attached **Addendum** to this Declaration.

Section 8. **“Rent Restrictions”** means the rent restrictions as set forth in the attached **Addendum** to this Declaration.

ARTICLE II

Income, Rent and Occupancy Restrictions

Section 1. **Income Restrictions.** Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, the Assisted Units will be occupied by residents who satisfy the Income Restrictions.

Section 2. **Rent Restrictions.** Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, the amount of rent to be charged to the residents of the Assisted Units will satisfy the Rent Restrictions.

Section 3. **Occupancy Restrictions.** Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, the Assisted Units will be occupied by residents who satisfy the Occupancy Restrictions.

ARTICLE III

Enforcement of Income, Rent and Occupancy Restrictions

Section 1. Declarant will permit, during normal business hours and upon reasonable notice, any duly authorized representative of Lender to inspect any books and records of Declarant with respect to the incomes of the residents of the Assisted Units, the rents charged for the Assisted Units, and Occupancy Restrictions to ensure compliance with the requirements of Article II of this Declaration and the Program.

Section 2. At Lender’s request, Declarant will submit any other information, documents or certifications that Lender, in its sole discretion, deems necessary to substantiate Declarant’s compliance with the requirements of Article II of this Declaration and the Program.

Section 3. Declarant covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Article II of this Declaration or the Program. Declarant covenants to take any lawful action, including amendment of this Declaration, as may be necessary, in the opinion of Lender, to comply fully with the Program and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the State of Minnesota, Lender, or HUD from time to time pertaining to Declarant’s obligations under the Program and affecting the Development.

ARTICLE IV

Representations, Covenants, and Warranties of Declarant

Section 1. Declarant declares, represents, covenants and agrees for itself, its successors and assigns, that, for the term of this Declaration, it will not refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident is the holder of a voucher under Section 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437f) or a recipient of any other form of tenant-based rental assistance.

Section 2. Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, each Assisted Unit is and will remain suitable for occupancy and meet the minimum housing standards required by Lender.

Section 3. Declarant declares, represents, covenants and agrees for itself and its successors and assigns that it will obtain Lender's consent in writing prior to any sale, transfer, or exchange of the Development or any portion thereof, during the term of this Declaration.

Section 4. Declarant declares, represents, covenants and agrees for itself and its successors and assigns that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions of this Declaration and that, in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations set forth in this Declaration and supersede any other requirements in conflict with this Declaration.

Section 5. Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, the Assisted Units will be subject to the Income Restrictions, Rent Restrictions, and the Occupancy Restrictions.

Section 6. Declarant declares, represents, covenants and agrees for itself and its successors and assigns that, for the term of this Declaration, that it will provide any and all information and reports as required by this Declaration.

ARTICLE V

Term

Section 1. This Declaration will remain in full force and effect for a period ending on the later of 35 years.

Section 2. Subject to Section 1 of this Article V, Declarant declares, represents, covenants and agrees for itself and its successors and assigns that the obligation to operate the Development subject to this Declaration and the Program for the term of the Declaration is independent of the existence of the Loan and that the provisions of this Declaration will survive the termination or extinguishment of the Loan and of any other security instruments placed of

record in connection with financing of the Development by Lender and survive the termination of any subsequent financing or security instruments placed of record by other lenders.

ARTICLE VI

Amendment, Termination of Covenants

Section 1. The provisions of this Declaration will not be amended during the term of this Declaration, except by an instrument in writing executed by Lender and Declarant, or their respective successors or assigns except as set forth in this Declaration. Lender, or its successors or assigns, has the right to terminate this Declaration at any time in its sole discretion.

Section 2. Unless sooner amended or terminated as provided in this Article VI, the Covenants contained in this Declaration will continue in full force and effect through the term of this Declaration and will then terminate and be of no further force or effect.

ARTICLE VII

Miscellaneous

Section 1. **Covenants Touch and Concern.** Declarant agrees that these Covenants confer a financial benefit upon Declarant and constitute a burden on the use of Declarant's property, but Declarant agrees such burden is reasonable given the benefits of the transaction to Lender, Declarant, and the residents on whose behalf Lender exercised the powers given to it by law.

Section 2. **Covenants Running with the Land.** This Declaration constitutes covenants that run with the land and are binding upon Declarant, its successors, heirs or assigns, and all subsequent owners of all or any part of the Development, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

Section 3. **Lender Sole Representative.** This Declaration inures solely to the benefit of Lender. Lender, or its successors or assigns, is designated as the sole and exclusive representative of any and all other persons or entities also benefited by the Covenants with respect to the enforcement, construction, interpretation, amendment, release and termination of the Covenants.

Section 4. **Remedies.** Lender, or its successors and assigns, may institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any violation, or to specifically enforce, the Covenants, or to recover monetary damages caused by that violation or attempted violation. No delay in enforcing the provisions of this section as to a violation will waive the right to enforce that violation at any later time.

Section 5. **Severability.** If any provisions of this Declaration are found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions will not in any way be affected or impaired.

Section 6. **Choice of Law.** This Declaration is governed by the laws of the State of Minnesota.

ARTICLE VIII

Notices

Any notice or petition required to be given to Lender or Declarant under this Declaration must be given in writing by personal delivery or certified mail at the address of such parties specified below, or at such other address as may be specified by that party by notice given to the other party:

Lender:

Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
St. Paul, MN 55102-1109
Attention: Assistant Commissioner, Multifamily

Declarant:

St. Cloud Housing and Redevelopment Authority of St. Cloud
1225 West St. Germain Street
St. Cloud, MN 56301
Attention: _____

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

DECLARANT:

**ST. CLOUD HOUSING AND
REDEVELOPMENT AUTHORITY**

a public body corporate and politic of the State of
Minnesota

By: _____
Louise Reis, Executive Director

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__,
by _____, the _____ of St. Cloud Housing and
Redevelopment Authority, a public body corporate and politic of the State of Minnesota, on
behalf of the authority.

Notary Public

THIS DOCUMENT WAS PREPARED BY:
Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
St. Paul, MN 55102-1109

**ADDENDUM 1 TO
Minnesota Housing Finance Agency
Publicly Owned Housing (Public Housing) Program
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

Total number of units in the Development:	89
Total number of units assisted with Program funds (the "Assisted Units") and restricted as set forth below:	88

A. INCOME RESTRICTIONS. Assisted Units must be occupied by households whose gross annual household income at initial occupancy does not exceed the Income Restriction(s) set forth below. See Addendum 2 for further funding restrictions, if applicable.

PROGRAM	# OF ASSISTED UNITS INCOME RESTRICTED	INCOME RESTRICTIONS	MAXIMUM TERM (YRS.) OF RESTRICTION*
POHP	88	Resident of public housing or whose income does not exceed the maximum household income as determined by HUD.	35

***Subject to Article V, Section 1 of the Declaration.**

B. RENT RESTRICTIONS. Gross rents, including an allowance for tenant-paid utilities, must not exceed the Rent Restriction(s) set forth below. See Addendum 2 for further funding restrictions, if applicable. None

C. OCCUPANCY RESTRICTIONS. Declarant must comply with any Occupancy Restrictions set forth below. None

Exhibit A
LEGAL DESCRIPTION

Part of Lots One (1), Two (2), Three (3), and Four (4) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right of way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 220.56 feet Southeasterly right of way line of Great Northern Railway which is point of beginning; thence deflect $180^{\circ} 00'$ on reversed course last mentioned 183.38 feet to point North right of way line of First Street North extended; thence deflect left $84^{\circ} 33'$ on said right of way line of First Street North extended 198.89 feet; thence deflect left $35^{\circ} 48'$ a distance of 29 feet, more or less, to shoreline of Mississippi River; thence Northwesterly on said shoreline to Southeasterly right of way line of Great Northern Railway; thence Southwesterly on said right of way line to point of beginning.

And

Parts of Lots One (1), Two (2), and Three (3) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at a point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right-of-way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 37.18 feet for point of beginning; thence continue on last mentioned course 183.38 feet to Southeasterly right-of-way of Great Northern Railroad; thence Southwesterly on said Southeasterly right-of-way line to its intersection with Northeasterly right-of-way line of Fifth Avenue North; thence Southeasterly on said Northeasterly right-of-way line 147.58 feet to Northwesterly right-of-way line of First Street North; thence Northeasterly on said Northwesterly right-of-way line of First Street North and said right of line extended 183.75 feet to point of beginning.

**Minnesota Housing Finance Agency
HUD Risk-Sharing (Federal Financing Bank) Program**

AMENDMENT TO LOAN COMMITMENT

THIS AMENDMENT TO LOAN COMMITMENT (the "Amendment") is effective as of the ____ day of _____, 201_, between St. Cloud Housing and Redevelopment Authority, a public body corporate and politic of the State of Minnesota ("Borrower"), and the Minnesota Housing Finance Agency, a public body corporate and politic of the State of Minnesota ("Lender").

RECITALS

A. Borrower, as the owner of real property described in **Exhibit A** attached to this Amendment, executed a Minnesota Housing Finance Agency End Loan Commitment dated December 19, 2018 in the original principal amount of \$325,000.00 (the "Loan Commitment").

B. The parties wish to amend the Loan Commitment to change the term of the Loan Commitment specified therein.

NOW, THEREFORE, the parties, their successors, heirs, representatives, executors, and assigns agree to amend the Loan Commitment as follows:

1. Section 1 is deleted in its entirety and replaced with:

"1. **Principal Amount and Use of POHP Loan.** The original principal amount of the POHP Loan shall not exceed \$295,831.00. Proceeds of the POHP Loan shall be used for rehabilitation of housing for low-income persons and households financed by the federal government and owned and operated by cities and counties as required under the Act.

2. Except as modified herein, all terms, conditions, and agreements contained in the Loan Commitment shall remain in full force and effect.

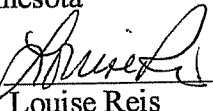
(THE REMAINING PORTION OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

BORROWER:

ST. CLOUD HOUSING AND REDEVELOPMENT AUTHORITY

a public body corporate and politic of the State of Minnesota

By:  _____
Louise Reis
Executive Director

LENDER:

MINNESOTA HOUSING FINANCE AGENCY

a public body corporate and politic of the State of Minnesota

By: _____
Wesley J. Butler
Assistant Commissioner, Multifamily

THIS INSTRUMENT WAS DRAFTED BY:

Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
St. Paul, Minnesota 55102-1109

EXHIBIT A

Legal Description

Part of Lots One (1), Two (2), Three (3), and Four (4) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right of way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 220.56 feet Southeasterly right of way line of Great Northern Railway which is point of beginning; thence deflect $180^{\circ} 00'$ on reversed course last mentioned 183.38 feet to point North right of way line of First Street North extended; thence deflect left $84^{\circ} 33'$ on said right of way line of First Street North extended 198.89 feet; thence deflect left $35^{\circ} 48'$ a distance of 29 feet, more or less, to shoreline of Mississippi River; thence Northwesterly on said shoreline to Southeasterly right of way line of Great Northern Railway; thence Southwesterly on said right of way line to point of beginning.

And

Parts of Lots One (1), Two (2), and Three (3) of Empire Block, Wilson's Survey, St. Cloud, Stearns County, Minnesota described as follows: Commencing at a point of intersection of centerlines of Fifth Avenue North and First Street North; thence Southeasterly on said centerline of Fifth Avenue North 4.01 feet; thence Northeasterly parallel to said centerline of First Street North 227.25 feet to point on Northerly right-of-way line of Fourth Avenue North; thence deflect left $95^{\circ} 27'$ a distance of 37.18 feet for point of beginning; thence continue on last mentioned course 183.38 feet to Southeasterly right-of-way of Great Northern Railroad; thence Southwesterly on said Southeasterly right-of-way line to its intersection with Northeasterly right-of-way line of Fifth Avenue North; thence Southeasterly on said Northeasterly right-of-way line 147.58 feet to Northwesterly right-of-way line of First Street North; thence Northeasterly on said Northwesterly right-of-way line of First Street North and said right of line extended 183.75 feet to point of beginning.

TO: HRA Board of Commissioners

FROM: Louise Reis, Executive Director

DATE: February 19, 2020

SUBJECT: Report on Activities

REAC Inspection – The scattered sites had a REAC inspection on February 4, 2020. We scored a 73 but plan to appeal the score due to the inspector including a damaged fence that does not belong to the HRA. If we win the appeal, it should add an additional 6 points for a total of 79. The inspection had two emergency exits blocked – residents had placed beds in front of egress windows and two exposed wires events; a broken outlet and wires in a junction box were not contained with a wire holder/container.

St. Cloud Neighborhood Coalition: The St. Cloud Neighborhood Coalition is planning another initiative this spring similar to the Healthy Neighborhoods event. The HRA has committed \$500.00 towards the cost of this event.

Partnership with District 742 and Lutheran Social Services: The St. Cloud School District 742 and Lutheran Social Services are planning to apply for a “Homework Starts with Home” grant for homeless students in the school district. The HRA has been asked to be a partner in the application and provide Housing Quality Standards (HQS) inspections for any households that are funded with rental assistance under the grant. Our agency would be paid for these inspections. And if we have openings, our agency would also provide rental assistance to qualified households that are referred from Coordinated Entry to our HUD Rental Assistance CoC grants.

Housing Choice Voucher Program: During January 2020, there were five housing choice vouchers released. Of the five vouchers released, one was for program violations, two were at zero HAP and two were released due to death. One of the voucher holders was over the age of 62.

As of January 31, 2020 – we have 195 Port In vouchers and 37 Port Outs.

CDBG Update:

For the homeowner rehab program:

- 7 in construction
- 1 in the bidding process
- 2 in scope of work (1 waiting for lead report and 1 waiting for engineer’s report)
- 1 in the eligibility process
- 6 on the waiting list

Housing Department Vacancy Report – For the Month Ending January 31, 2020

Fund: Public Housing – 291 Units			
		Yearly	Vacant
Complex	# of units	Vacancy Rate	1/31/20
Empire	89	0.98%	0
Wilson	126	1.10%	0
Scattered Sites	76	0.85%	0

Fund: Section 8 New Construction – 162 Units			
		Yearly	Vacant
<u>Complex</u>	<u># of units</u>	<u>Vacancy Rate</u>	<u>1/31/20</u>
Germain	60	0.59%	0
Grace/NWB	102	0.73%	1

Fund: Tax Credit – 249 Units			
		Yearly	Vacant
<u>Complex</u>	<u># of units</u>	<u>Vacancy Rate</u>	<u>1/31/20</u>
Creeks	24	0.00%	0
Brownstones	12	0.00%	0
Swisshelm One	32	5.14%	1
Westwood One	32	9.38%	3*
Swisshelm Two	32	5.24%	2
Westwood Two	32	3.13%	1
Riverside	85	0.00%	0

Fund: Affordable Housing – 79 Units			
		Yearly	Vacant
<u>Complex</u>	<u># of units</u>	<u>Vacancy Rate</u>	<u>1/31/20</u>
Eastwood	18	5.56%	1
Loehr	61	0.00%	0

*One unit rented 2/1/20, two units scheduled for March move-ins