



CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Monday, March 17, 2025 @ 7:30 PM

The public is invited to attend these meetings in person

Attend by phone: 1-844-992-4726

City Council - Meeting Access Code: 2480 537 0535

Personnel and Finance Committee held: 2nd Floor Conference Room at 7:00 PM

Safety and Public Works Committee held: Council Chambers at 7:15 PM

Meetings are broadcast on CTC ch 8, Charter ch 181, YouTube, AppleTV, Roku, and Amazon FireTV

1. **Call To Order**

2. **Roll Call**

___ K. Bevans ___ J. Czezok ___ G. Johnson ___ K. Stunek ___ K. Yeager ___ T. Erickson
___ M. O'Day ___ Mayor Badeaux

3. **Pledge of Allegiance**

4. **Approval Of Agenda - Voice Vote**

5. **Consent Calendar**

NOTICE TO PUBLIC - all matters listed are considered routine by the Council and will all be enacted by one (1) motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion to be ADOPTED BY ROLL CALL

A. **Approval of Bills**

B. **Approval of Minutes**

C. **Department Activity Reports**

D. **Approve Temporary Liquor License Application Submitted by Lakes Area Habitat for Humanity for an Event to be held on April 3, 2025, at 602 S 5th St**

E. **Approve Temporary On-Sale Liquor License Submitted by BPOE Lodge 615 (Brainerd Elks) for an Event to be held on May 7, 2025 at 215 S 9th St**

F. **Approve Summary of City Administrator Broyles 2024 Performance Evaluation held March 3, 2025.**

6. **Public Forum**

Time allocated for citizens to bring matters not on the agenda to the attention of the Council -
Time limits may be imposed

7. **Presentations**

A. **Camp Ripley Community Brief**

8. **Council Committee Reports**

A. **Safety & Public Works Committee**

1. Authorize the Police Department to apply for the Lucas Project Grant

B. **Personnel & Finance Committee**

1. Authorize Technology Department Renovations Using PEG Channel Funds
2. Discuss Orderly Annexation of Riverside Drive
3. Ratify the Hiring of Courtney DeChaine for a Police Records Management Technician Position
4. Ratify the Reclassification of Aaron Andersen to Technology Coordinator
5. Ratify the 2024-2026 Contract Terms and Wage Resolution with IBEW Local No. 31 (Public Utilities) Union
6. Consider Crow Wing County Historical Society Donation Request

9. **Unfinished Business**

A. **Call for Applicants**

Mayor Recommended: (terms to expire on 12/31 of said year)
Charter Commission – **2 terms** (Expire 2025) **2 terms** (Expire 2026)
Housing & Redevelopment Authority -- **1 term** (Expire 2027)
Library Board-- **1 term** (Expire 2027)
Public Utilities Commission—**1 term** (Expire 2028)
Transportation Advisory Committee- **2 terms** (Expire 2026)
Council President Recommended: (terms expire on 12/31 of said year)
Water Tower Committee—**3 terms**

B. **Conduct Public Hearing and Adopt Resolution Regarding the Conduit Debt for the Country Manor Project**

10. **New Business**

- A. **Authorize HRA, on behalf of the City, to submit Small Cities Development Program (SCDP) Grant Application to Department of Employment and Economic Development (DEED)**
 - B. **Authorize Development Opportunity Letters**
 - C. **Adopt Resolution - Deny Zoning Change and Text Amendment Request for Paradigm Auto**
 - D. **Adopt Resolution - Receive Feasibility Report and Call for Public Hearing on Improvement - Imp 23-14 - Hawkins-Joseph-Ronald Resurfacing Project**
11. **Staff Reports**
(Verbal: Any Updates since Packet)
12. **Mayor's Report**
13. **Council Member Reports**
14. **Adjourn**
- A. **Adjourn to Closed Session Pursuant to MN Statute 13D.05 subd. 3(c) 3 to Discuss Negotiations for Temporary and Permanent Easements**
 - B. **Adjourn to Closed Session Pursuant to MN Statute 13D.05 subd. 3(c) 3 to Discuss Offers for Easements for TH 210 Reconstruction Project**
15. **Council Communications**
- A. **PFAS Letter MPCA**

Visit the City's Website at www.ci.brainerd.mn.us

MISSION

"Provide high quality, cost effective public services and leadership in creating a sustainable city"

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
Vendor 2740 - AT&T MOBILITY:							
X02032025/FIRE DEPT							
86758	AT&T MOBILITY	01/25/2025	02/07/2025	344.07	0.00	Paid	Y
	ACCT 287312856222 FIRE DEPT PHONES 12/pziemer						02/07/2025
	225-2220-43321 TELEPHONE			344.07			
X02032025/TRANSIT							
86759	AT&T MOBILITY	01/25/2025	02/07/2025	49.93	0.00	Paid	Y
	ACCT 287292136423 TRANSIT PHONE 12/2/pziemer						02/07/2025
	203-9000-43321 TELEPHONE			49.93			
X02032025/ADM							
86760	AT&T MOBILITY	01/25/2025	02/07/2025	99.86	0.00	Paid	Y
	ACCT 287292136423 ADMIN DEPT PHONES 1/pziemer						02/07/2025
	101-1400-43321 TELEPHONE			99.86			
X02032025/CDD							
86761	AT&T MOBILITY	01/25/2025	02/07/2025	149.79	0.00	Paid	Y
	ACCT 287292136423 COM DEV PHONES 12/pziemer						02/07/2025
	101-2400-43321 TELEPHONE			149.79			
X02032025/ENG							
86762	AT&T MOBILITY	01/25/2025	02/07/2025	359.29	0.00	Paid	Y
	ACCT 287292136423 ENG DEPT PHONES pziemer						02/07/2025
	101-1700-43321 TELEPHONE			276.18			
	238-3160-43321 TELEPHONE			41.56			
	238-0000-14100 DUE FROM COMPONENT UNIT			41.55			
X02032025/HR							
86763	AT&T MOBILITY	01/25/2025	02/07/2025	49.93	0.00	Paid	Y
	ACCT 287292136423 HR DEPT 12/26-1/25 pziemer						02/07/2025
	101-1400-43321 TELEPHONE			49.93			
X02032025/IT							
86764	AT&T MOBILITY	01/25/2025	02/07/2025	119.86	0.00	Paid	Y
	IT DEPT PHONES ACCT 287292136423 12/pziemer						02/07/2025
	101-1800-43321 TELEPHONE			119.86			
X02032025/PARKS							
86765	AT&T MOBILITY	01/25/2025	02/07/2025	187.62	0.00	Paid	Y
	ACCT 287292136423 PARKS 12/26-1/25 pziemer						02/07/2025
	230-5200-43321 TELEPHONE			167.62			
	230-5204-42210 OPERATING SUPPLIES			20.00			
X02032025/STRTS							
86766	AT&T MOBILITY	01/25/2025	02/07/2025	209.50	0.00	Paid	Y
	ACCT 287292136423 STREETS 12/26-1/25 pziemer						02/07/2025
	235-3100-43321 TELEPHONE			88.16			
	237-3190-43321 TELEPHONE			121.34			

Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
X02032025/PD							
86782	AT&T MOBILITY	01/25/2025	02/07/2025	2,033.82	0.00	Paid	Y
	ACCT 287287520356 PD COMP SUPPORT/Pipziemer						02/07/2025
	225-2120-43309	COMPUTER TECHNICAL SUPPORT		726.37			
	225-2120-43321	TELEPHONE		1,307.45			
	Total for vendor 2740 - AT&T MOBILITY:			3,603.67	0.00		
# of Invoices:	10	# Due:	0	Totals:	3,603.67	0.00	
# of Credit Memos:	0	# Due:	0	Totals:	0.00	0.00	
Net of Invoices and Credit Memos:				3,603.67	0.00		

--- TOTALS BY GL DISTRIBUTION ---

101-1400-43321	TELEPHONE	149.79
101-1700-43321	TELEPHONE	276.18
101-1800-43321	TELEPHONE	119.86
101-2400-43321	TELEPHONE	149.79
203-9000-43321	TELEPHONE	49.93
225-2120-43309	COMPUTER TECHNICAL SUPPORT	726.37
225-2120-43321	TELEPHONE	1,307.45
225-2220-43321	TELEPHONE	344.07
230-5200-43321	TELEPHONE	167.62
230-5204-42210	OPERATING SUPPLIES	20.00
235-3100-43321	TELEPHONE	88.16
237-3190-43321	TELEPHONE	121.34
238-0000-14100	DUE FROM COMPONENT UNIT	41.55
238-3160-43321	TELEPHONE	41.56

03/10/2025 09:58 AM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 02/01/2025 - 02/28/2025

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
Inv Ref#	Description	Entered By					Post Date
GL Distribution							
--- TOTALS BY FUND ---							
	101 - GENERAL FUND			695.62	0.00		
	203 - TRANSIT FUND			49.93	0.00		
	225 - PUBLIC SAFETY FUND			2,377.89	0.00		
	230 - PARK & RECREATION FUND			187.62	0.00		
	235 - STREET & SEWER FUND			88.16	0.00		
	237 - SANITARY SEWER FUND			121.34	0.00		
	238 - STORM SEWER FUND			83.11	0.00		
--- TOTALS BY DEPT/ACTIVITY ---							
	0000 -			41.55	0.00		
	1400 - ADMINISTRATION			149.79	0.00		
	1700 - ENGINEERING			276.18	0.00		
	1800 - IT/GIS			119.86	0.00		
	2120 - POLICE DEPARTMENT			2,033.82	0.00		
	2220 - FIRE DEPARTMENT			344.07	0.00		
	2400 - COMMUNITY DEVL/INSPECTION			149.79	0.00		
	3100 - S & S MAINTENANCE			88.16	0.00		
	3160 - STORM SEWER EXPENSE			41.56	0.00		
	3190 - SANITARY SEWER EXPENSE			121.34	0.00		
	5200 - PARK MAIN/ADMINISTRATION			167.62	0.00		
	5204 - CONCESSIONS			20.00	0.00		
	9000 - TRANSIT FUND			49.93	0.00		

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
Vendor 0011 - ACE HARDWARE:							
330698/1 87152	ACE HARDWARE PAINT ROLLER/SCRAPER 230-5200-42220	02/27/2025 pziemer REPAIR & MAINT	03/19/2025	19.78 19.78	19.78	Open	N 03/19/2025
330701/1 87153	ACE HARDWARE SPRAY PAINT - PARKS 230-5200-42220	02/27/2025 pziemer REPAIR & MAINT	03/19/2025	25.00 25.00	25.00	Open	N 03/19/2025
330717/1 87158	ACE HARDWARE FLEXTAPE/SEALANT -HISTORIC WATER TOW 400-1481-43430	02/28/2025 pziemer MISCELLANEOUS	03/19/2025	89.97 89.97	89.97	Open	N 03/19/2025
330731/1 87159	ACE HARDWARE FASTENERS - PARKS 230-5200-42220	02/28/2025 pziemer REPAIR & MAINT	03/19/2025	7.80 7.80	7.80	Open	N 03/19/2025
330761/1 87205	ACE HARDWARE BATTERIES 225-2120-42210	03/03/2025 pziemer OPERATING SUPPLIES	03/19/2025	36.68 36.68	36.68	Open	N 03/19/2025
330786/1 87206	ACE HARDWARE HAND SOAP 225-2120-42220	03/04/2025 pziemer REPAIR & MAINT	03/19/2025	5.39 5.39	5.39	Open	N 03/19/2025
330856/1 87240	ACE HARDWARE CONNECTOR LOCK 230-5200-42220	03/07/2025 pziemer REPAIR & MAINT	03/19/2025	22.49 22.49	22.49	Open	N 03/19/2025
330840/1 87265	ACE HARDWARE FASTENERS/WIPES 225-2220-42220 225-2220-42210	03/06/2025 pziemer REPAIR & MAINT OPERATING SUPPLIES	03/19/2025	7.79 0.60 7.19	7.79	Open	N 03/19/2025
330920/1 87272	ACE HARDWARE TRAINING SUPPLIES 225-2120-43330	03/11/2025 pziemer PROFESSIONAL DEVELOPMENT	03/19/2025	13.38 13.38	13.38	Open	N 03/19/2025
330914/1 87274	ACE HARDWARE PAINT ROLLER 230-5200-42220	03/11/2025 pziemer REPAIR & MAINT	03/19/2025	10.78 10.78	10.78	Open	N 03/19/2025

INVOICE REGISTER REPORT FOR CITY OF BRAINERD
 EXP CHECK RUN DATES 03/17/2025 - 03/17/2025
 BOTH JOURNALIZED AND UNJOURNALIZED
 OPEN

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
330941/1 87285	ACE HARDWARE CABLE/BOLTS 230-5200-42220	03/12/2025 pziemer	03/19/2025	77.86	77.86	Open	N 03/19/2025
	REPAIR & MAINT			77.86			
	Total for vendor 0011 - ACE HARDWARE:			316.92	316.92		

Vendor 2902 - ADVANCE AUTO PARTS:

6574506282301 87188	ADVANCE AUTO PARTS STOCK OIL AND FUEL FILTERS 235-3125-42220	03/03/2025 pziemer	03/19/2025	137.01	137.01	Open	N 03/19/2025
	REPAIR & MAINT			137.01			
6574505982274 87190	ADVANCE AUTO PARTS INTERIOR TRUCK CLEANER 235-3125-42220	02/28/2025 pziemer	03/19/2025	12.80	12.80	Open	N 03/19/2025
	REPAIR & MAINT			12.80			
6574505882198 87191	ADVANCE AUTO PARTS WOOD CHIPPER FILTERS 235-3100-42220	02/27/2025 pziemer	03/19/2025	79.22	79.22	Open	N 03/19/2025
	REPAIR & MAINT			79.22			
6574506520138 87237	ADVANCE AUTO PARTS SWEEPER 118 MINI FUSE 235-3100-42220	03/06/2025 pziemer	03/19/2025	9.64	9.64	Open	N 03/19/2025
	REPAIR & MAINT			9.64			
	Total for vendor 2902 - ADVANCE AUTO PARTS:			238.67	238.67		

Vendor 2670 - AMERICAN STEEL SUPPLY INC:

124349 87225	AMERICAN STEEL SUPPLY INC PARKS SHOP SUPPLIES 230-5200-42220	02/26/2025 pziemer	03/19/2025	618.75	618.75	Open	N 03/19/2025
	REPAIR & MAINT			618.75			
	Total for vendor 2670 - AMERICAN STEEL SUPPLY INC:			618.75	618.75		

Vendor 2846 - AMERICAN WELDING-GAS INC:

0010701912 87195	AMERICAN WELDING-GAS INC WELDING GAS CYLINDER RENTAL 235-3100-43410	02/28/2025 pziemer	03/19/2025	78.41	78.41	Open	N 03/19/2025
	RENTAL EXPENSE			78.41			
0010715469 87238	AMERICAN WELDING-GAS INC WELDING GAS REFILL 235-3100-42220	03/07/2025 pziemer	03/19/2025	83.70	83.70	Open	N 03/19/2025
	REPAIR & MAINT			83.70			
	Total for vendor 2846 - AMERICAN WELDING-GAS INC:			162.11	162.11		

INVOICE REGISTER REPORT FOR CITY OF BRAINERD
EXP CHECK RUN DATES 03/17/2025 - 03/17/2025
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OPEN

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
Vendor 0684 - ANDERSON, ROBERT:							
3/3/25							
87164	ANDERSON, ROBERT	03/03/2025	03/19/2025	71.30	71.30	Open	N
	EYEGLOSS REPAIR - DAMAGED AT WORK	pziemer					03/19/2025
	235-3100-43430	MISCELLANEOUS		71.30			
	Total for vendor 0684 - ANDERSON, ROBERT:			71.30	71.30		
Vendor 4179 - ASSET PANDA LLC:							
INV00007066							
87155	ASSET PANDA LLC	02/28/2025	03/19/2025	3,143.13	3,143.13	Open	N
	ASSET PANDA SOFTWARE 2/28/25-2/28/26	pziemer					03/19/2025
	101-1800-43309	COMPUTER SUPPORT		2,619.27			
	101-0000-15510	PREPAID OTHER		523.86			
	Total for vendor 4179 - ASSET PANDA LLC:			3,143.13	3,143.13		
Vendor 0745 - BATTERIES PLUS:							
P80725168							
87207	BATTERIES PLUS	03/03/2025	03/19/2025	29.94	29.94	Open	N
	BATTERIES	pziemer					03/19/2025
	225-2120-42210	OPERATING SUPPLIES		29.94			
P80948896							
87286	BATTERIES PLUS	03/12/2025	03/19/2025	7.40	7.40	Open	N
	BATTERIES	pziemer					03/19/2025
	225-2220-42210	OPERATING SUPPLIES		7.40			
	Total for vendor 0745 - BATTERIES PLUS:			37.34	37.34		
Vendor 0603 - BNSF RAILWAY COMPANY:							
25002686							
87166	BNSF RAILWAY COMPANY	02/13/2025	03/19/2025	16,047.06	16,047.06	Open	N
	3/30/25-3/29/26 BNSF LOT LEASE	pziemer					03/19/2025
	236-3180-43430	MISCELLANEOUS		12,035.29			
	236-0000-15510	PREPAID		4,011.77			
	Total for vendor 0603 - BNSF RAILWAY COMPANY:			16,047.06	16,047.06		
Vendor 3120 - BOLTON & MENK:							
0357443							
87296	BOLTON & MENK	02/28/2025	03/19/2025	11,446.00	11,446.00	Open	N
	23:16 S. BRD RESURFACING PROJECT 1/16	pziemer					03/19/2025
	401-9030-43300-23:16	PROFESSIONAL SERVICES		11,446.00			
	Total for vendor 3120 - BOLTON & MENK:			11,446.00	11,446.00		
Vendor 0074 - BRAINERD GENERAL RENTAL:							

03/13/2025 01:27 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/17/2025 - 03/17/2025

BOTH JOURNALIZED AND UNJOURNALIZED

OPEN

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
180903 87282	BRAINERD GENERAL RENTAL SCISSOR LIFT RENTAL - PARKS 230-5200-42220	03/12/2025 pziemer	03/19/2025	104.50	104.50	Open	N 03/19/2025
	REPAIR & MAINT			104.50			
	Total for vendor 0074 - BRAINERD GENERAL RENTAL:			104.50	104.50		

Vendor 0296 - BRAINERD PUBLIC UTILITIES:

INV22529 86934	BRAINERD PUBLIC UTILITIES 2016A BOND PAYMENT 237-3190-46611	02/19/2025 pziemer	03/19/2025	23,633.63	23,633.63	Open	N 03/19/2025
	INTEREST PAYMENTS			23,633.63			
1/31/25 87251	BRAINERD PUBLIC UTILITIES JAN 25 SPECIALS SETTLEMENT 101-0000-20850	01/31/2025 pziemer	03/19/2025	89.76	89.76	Open	N 03/19/2025
	DUE TO COMPONENT UNIT			89.76			
3/13/2025 87284	BRAINERD PUBLIC UTILITIES REMIT LOST THRU 3/12/25 251-9360-43467	03/12/2025 pziemer	03/19/2025	160,907.85	160,907.85	Open	N 03/19/2025
	REMIT LOCAL SALES TAX COLLECT			160,907.85			
	Total for vendor 0296 - BRAINERD PUBLIC UTILITIES:			184,631.24	184,631.24		

Vendor 4209 - CALLTOWER:

202436773 87210	CALLTOWER CALLTOWER 3/1/25-3/31/25 101-1800-43321	03/01/2025 pziemer	03/19/2025	345.29	345.29	Open	N 03/19/2025
	TELEPHONE			345.29			
	Total for vendor 4209 - CALLTOWER:			345.29	345.29		

Vendor 0102 - CANON FINANCIAL SERVICE:

38847771 87147	CANON FINANCIAL SERVICE 3/1/25-3/31/25 LIBRARY COPIER CONTRA 211-5505-43430	02/21/2025 pziemer	03/19/2025	77.97	77.97	Open	N 03/19/2025
	MISC - COPY MACHINE PYMTS			77.97			
38844972 87148	CANON FINANCIAL SERVICE 3/1/25-3/31/25 LIBRARY COPIER FAX COM 211-5505-43430	02/20/2025 pziemer	03/19/2025	19.73	19.73	Open	N 03/19/2025
	MISC - COPY MACHINE PYMTS			19.73			
	Total for vendor 0102 - CANON FINANCIAL SERVICE:			97.70	97.70		

Vendor 0447 - CDW GOVERNMENT, INC:

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
AC8XK8J 87154	CDW GOVERNMENT, INC NETWORK RACK - APC NETSHELTER AR3100 pziemer 101-1800-42210	02/20/2025 OPERATING SUPPLIES	03/19/2025	1,610.95 1,610.95	1,610.95	Open	N 03/19/2025
AC8Y53M 87224	CDW GOVERNMENT, INC HEADPHONES QTY 5 101-1800-42210	02/21/2025 pziemer OPERATING SUPPLIES	03/19/2025	63.50 63.50	63.50	Open	N 03/19/2025
Total for vendor 0447 - CDW GOVERNMENT, INC:				1,674.45	1,674.45		
Vendor 1333 - CHAMBERLAIN OIL COMPANY:							
501439-00 87175	CHAMBERLAIN OIL COMPANY PURUS ALLETOR X3 235-3100-42220	02/19/2025 pziemer REPAIR & MAINT	03/19/2025	113.91 113.91	113.91	Open	N 03/19/2025
502681-00 87223	CHAMBERLAIN OIL COMPANY 15-40 & 5-30 ENGINE OIL 235-3100-42220	03/05/2025 pziemer REPAIR & MAINT	03/19/2025	1,299.78 1,299.78	1,299.78	Open	N 03/19/2025
Total for vendor 1333 - CHAMBERLAIN OIL COMPANY:				1,413.69	1,413.69		
Vendor 1343 - CHARTER COMMUNICATIONS:							
175587701022125 87176	CHARTER COMMUNICATIONS BUSINESS TV 225-2120-43380	02/21/2025 pziemer UTILITIES	03/19/2025	46.51 46.51	46.51	Open	N 03/19/2025
25-309695 87241	CHARTER COMMUNICATIONS SUBPOENA REQUEST ICR 24015647 225-2120-42210	03/05/2025 pziemer OPERATING SUPPLIES	03/19/2025	50.00 50.00	50.00	Open	N 03/19/2025
Total for vendor 1343 - CHARTER COMMUNICATIONS:				96.51	96.51		
Vendor 1653 - CIVICPLUS:							
329037 87254	CIVICPLUS CIVIC CLERK 3/29/25-3/28/26 101-1800-43309 101-0000-15510	03/29/2025 pziemer COMPUTER SUPPORT PREPAID OTHER	03/19/2025	5,772.47 4,329.35 1,443.12	5,772.47	Open	N 03/19/2025
Total for vendor 1653 - CIVICPLUS:				5,772.47	5,772.47		
Vendor 4269 - COLUMN SOFTWARE:							

03/13/2025 01:27 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/17/2025 - 03/17/2025

BOTH JOURNALIZED AND UNJOURNALIZED

OPEN

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
425BB603-0097 87211	COLUMN SOFTWARE ORD 1579 BREWPUBS 101-9200-43350	02/22/2025 pziemer	03/19/2025	136.47	136.47	Open	N 03/19/2025
	LEGAL PUBLICATIONS			136.47			
425BB603-0098 87258	COLUMN SOFTWARE NOTICE: TRANSIT FARE DECREASE - SAME 203-9000-43350	02/25/2025 pziemer	03/19/2025	38.54	38.54	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			38.54			
425BB603-0099 87259	COLUMN SOFTWARE NOH: CUP 1801 MILL -AUTO SALES 101-2400-43350	03/05/2025 pziemer	03/19/2025	46.30	46.30	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			46.30			
425BB603-0101 87260	COLUMN SOFTWARE NOH: IUP -BRIDGES OF HOPE - YEAR ROUN 101-2400-43350	03/05/2025 pziemer	03/19/2025	59.27	59.27	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			59.27			
425BB603-0100 87297	COLUMN SOFTWARE NOH: CUP - MY NEIGHBOR 3-8-25 101-2400-43350	03/05/2025 pziemer	03/19/2025	60.48	60.48	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			60.48			
Total for vendor 4269 - COLUMN SOFTWARE:				341.06	341.06		

Vendor 0122 - COMMUNITY ACTION:

MARCH 2025 87231	COMMUNITY ACTION MAR 25 LEVY PAYMENT 101-9200-43460	03/06/2025 pziemer	03/19/2025	8,698.73	8,698.73	Open	N 03/19/2025
	REMIT COMMUNITY ACTION LEVY			8,698.73			
Total for vendor 0122 - COMMUNITY ACTION:				8,698.73	8,698.73		

Vendor 0900 - CUB FOODS - BRAINERD:

TRX ? 3/11/25 87283	CUB FOODS - BRAINERD STOP THE BLEED TRAINING SUPPLIES 225-2120-43330	03/11/2025 pziemer	03/19/2025	35.38	35.38	Open	N 03/19/2025
	PROFESSIONAL DEVELOPMENT			35.38			
Total for vendor 0900 - CUB FOODS - BRAINERD:				35.38	35.38		

Vendor 0133 - CWC RECORDER:

25-1777 87160	CWC RECORDER VARIANCE 1306 CHICAGO 101-2400-43350	02/26/2025 pziemer	03/19/2025	46.00	46.00	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			46.00			

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
25-2146 87276	CWC RECORDER 324 S 5TH ST - CUP/VARIANCE 101-2400-43350	03/07/2025 pziemer	03/19/2025	92.00 92.00	92.00	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			92.00			
	Total for vendor 0133 - CWC RECORDER:			138.00	138.00		
Vendor 0134 - CWC SANITARY LANDFILL:							
208942 87226	CWC SANITARY LANDFILL JCP- OLD RUBBER MATS DISPOSAL 230-5209-42220	02/25/2025 pziemer	03/19/2025	13.00 13.00	13.00	Open	N 03/19/2025
	REPAIR & MAINT			13.00			
	Total for vendor 0134 - CWC SANITARY LANDFILL:			13.00	13.00		
Vendor 0135 - CWC TREASURER:							
7960/CH 87179	CWC TREASURER CITY HALL SHARES SVCS 101-9200-43300	03/01/2025 pziemer	03/19/2025	7,975.00 7,975.00	7,975.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES			7,975.00			
7960/LIB 87180	CWC TREASURER LIBRARY SHARED SVCS 211-5500-43300	03/01/2025 pziemer	03/19/2025	675.00 675.00	675.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES			675.00			
	Total for vendor 0135 - CWC TREASURER:			8,650.00	8,650.00		
Vendor 2898 - DIGITAL HORIZONS:							
3679 87244	DIGITAL HORIZONS HDMI EXTENDER - REPLACEMENT 101-1800-42220	02/26/2025 pziemer	03/19/2025	381.52 381.52	381.52	Open	N 03/19/2025
	REPAIR & MAINT			381.52			
	Total for vendor 2898 - DIGITAL HORIZONS:			381.52	381.52		
Vendor 1859 - ENTERPRISE FM TRUST:							
FBN5274083/CDD 87245	ENTERPRISE FM TRUST MAR 25 CDD VEHICLE LEASES 101-2400-43331	03/05/2025 pziemer	03/19/2025	890.66 890.66	890.66	Open	N 03/19/2025
	LEASE EXPENSE			890.66			
FBN5274083/ENG 87246	ENTERPRISE FM TRUST MAR 25 ENG DEPT VEHICLE LEASES 101-1700-43331	03/05/2025 pziemer	03/19/2025	2,559.21 1,703.92	2,559.21	Open	N 03/19/2025
	LEASE PAYMENTS			1,703.92			
	238-3160-43331	LEASE PAYMENTS		427.65			
	238-0000-13200	DUE FROM OTHER GOVTS		427.64			

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FBN5274083/FD 87247	ENTERPRISE FM TRUST MAR 25 FD VEHICLE LEASES 225-2220-43331 225-2220-42220	03/05/2025 pziemer LEASED PAYMENTS REPAIR & MAINT	03/19/2025	2,014.00 1,833.36 180.64	2,014.00	Open	N 03/19/2025
FBN5274083/PD 87248	ENTERPRISE FM TRUST MAR 25 POLICE DEPT VEHICLE LEASES 225-2120-43331	03/05/2025 pziemer LEASED PAYMENTS	03/19/2025	12,328.35 12,328.35	12,328.35	Open	N 03/19/2025
FBN5274083/PKS 87249	ENTERPRISE FM TRUST MAR 25 PARKS DEPT VEHICLE LEASES 230-5200-43331	03/05/2025 pziemer LEASE PAYMENTS	03/19/2025	5,411.91 5,411.91	5,411.91	Open	N 03/19/2025
FBN5274083/STRTS 87250	ENTERPRISE FM TRUST MAR 25 STREETS DEPT VEHICLE LEASES 235-3100-43331 237-3190-43331	03/05/2025 pziemer LEASE PAYMENTS LEASE PAYMENTS	03/19/2025	5,964.31 4,085.15 1,879.16	5,964.31	Open	N 03/19/2025
FBN5274083/FD LOSS 87263	ENTERPRISE FM TRUST LOSS ON 28NQ2N OWNED 1995 FORD 400-0000-39101	03/05/2025 pziemer SALE OF ASSETS	03/19/2025	57.00 57.00	57.00	Open	N 03/19/2025
FBN5274083/PROCEEDS 87264	ENTERPRISE FM TRUST PARKS X2 LEASED 22JW72 & OWNED 28Q9P 230-0000-39101 400-0000-39101	03/05/2025 pziemer SALE OF ASSETS SALE OF ASSETS	03/19/2025	(27,499.00) (18,899.00) (8,600.00)	(27,499.00)	Open	N 03/19/2025
Total for vendor 1859 - ENTERPRISE FM TRUST:				1,726.44	1,726.44		
Vendor 0170 - FASTENAL COMPANY:							
MNBAX271818 87275	FASTENAL COMPANY HI-VIS CONES 235-3170-42210	01/23/2025 pziemer OPERATING SUPPLIES	03/19/2025	920.00 920.00	920.00	Open	N 03/19/2025
Total for vendor 0170 - FASTENAL COMPANY:				920.00	920.00		
Vendor 3402 - FLEETPRIDE:							
123917348 87196	FLEETPRIDE TRUCK 103 ALTERNATOR BELT 235-3125-42220	03/04/2025 pziemer REPAIR & MAINT	03/19/2025	51.99 51.99	51.99	Open	N 03/19/2025
Total for vendor 3402 - FLEETPRIDE:				51.99	51.99		

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
Vendor 0071 - FORUM COMMUNICATIONS COMPANY:							
MP3161230225 87193	FORUM COMMUNICATIONS COMPANY JOB POSTING - STRTS MAINT 235-3100-43350	02/28/2025 pziemer	03/19/2025	604.50	604.50	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			604.50			
	Total for vendor 0071 - FORUM COMMUNICATIONS COMPANY:			604.50	604.50		
Vendor 0186 - GALLS LLC:							
030439817 87242	GALLS LLC 708 UNIFORM SHIRT X2 225-2120-41113	02/11/2025 pziemer	03/19/2025	184.15	184.15	Open	N 03/19/2025
	UNIFORM ALLOWANCE			184.15			
	Total for vendor 0186 - GALLS LLC:			184.15	184.15		
Vendor 3011 - GUARDIAN PEST CONTROL INC:							
2640863 87280	GUARDIAN PEST CONTROL INC MONTHLY PEST CONTROL 225-2220-42221	02/07/2025 pziemer	03/19/2025	59.00	59.00	Open	N 03/19/2025
	R&M BUILDING			59.00			
	Total for vendor 3011 - GUARDIAN PEST CONTROL INC:			59.00	59.00		
Vendor 0200 - HEARTLAND ANIMAL RESCUE:							
FEB 2025 87150	HEARTLAND ANIMAL RESCUE FEB 25 ADMIN/BOARDING 225-2700-43430	02/28/2025 pziemer	03/19/2025	4,941.33	4,941.33	Open	N 03/19/2025
	MISCELLANEOUS			3,022.00			
	PROFESSIONAL SERVICES			1,919.33			
	Total for vendor 0200 - HEARTLAND ANIMAL RESCUE:			4,941.33	4,941.33		
Vendor 0209 - HEARTLAND TIRE INC.:							
15029400 87197	HEARTLAND TIRE INC. TRUCK 103 TIRE REPAIR 235-3125-42220	02/19/2025 pziemer	03/19/2025	57.60	57.60	Open	N 03/19/2025
	REPAIR & MAINT			57.60			
15029565 87281	HEARTLAND TIRE INC. VAC TRUCK TIRE REPLACEMENT 237-3190-42220	03/12/2025 pziemer	03/19/2025	2,015.28	2,015.28	Open	N 03/19/2025
	REPAIR & MAINT			2,015.28			
3056151 87299	HEARTLAND TIRE INC. REPAIR LEAKING TIRE 101-1940-42220	03/11/2025 pziemer	03/19/2025	37.55	37.55	Open	N 03/19/2025
	REPAIR & MAINT			37.55			

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User: pziemer

DB: Brainerd

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Total for vendor 0209 - HEARTLAND TIRE INC.:				2,110.43	2,110.43		
Vendor 3488 - JEFFERSON FIRE & SAFETY:							
IN324071 87266	JEFFERSON FIRE & SAFETY LITTER HARNESS 225-2220-42210	02/25/2025 pziemer	03/19/2025	468.35	468.35	Open	N 03/19/2025
	OPERATING SUPPLIES			468.35			
IN324445 87270	JEFFERSON FIRE & SAFETY TURNOUT GEAR X1 225-2220-42250	03/06/2025 pziemer	03/19/2025	3,935.25	3,935.25	Open	N 03/19/2025
	PERSONAL PROTECTIVE GEAR			3,935.25			
Total for vendor 3488 - JEFFERSON FIRE & SAFETY:				4,403.60	4,403.60		
Vendor 0220 - KENNEDY & GRAVEN:							
186483 87298	KENNEDY & GRAVEN COUNTRY MANOR THRU 1/31/25 295-0000-20600	02/17/2025 pziemer	03/19/2025	397.50	397.50	Open	N 03/19/2025
	DEPOSITS PAYABLE			397.50			
Total for vendor 0220 - KENNEDY & GRAVEN:				397.50	397.50		
Vendor 3118 - KULZER, MICHAEL:							
3/10/25 87273	KULZER, MICHAEL UNIFORM REIMBURSEMENT 225-2120-41113	03/10/2025 pziemer	03/19/2025	75.98	75.98	Open	N 03/19/2025
	UNIFORM ALLOWANCE			75.98			
Total for vendor 3118 - KULZER, MICHAEL:				75.98	75.98		
Vendor 0313 - LAKES AREA SENIOR CENTER:							
MARCH 2025 87232	LAKES AREA SENIOR CENTER MAR 25 LEVY PAYMENT 101-9200-43461	03/06/2025 pziemer	03/19/2025	8,698.73	8,698.73	Open	N 03/19/2025
	REMIT SENIOR CITIZEN LEVY			8,698.73			
Total for vendor 0313 - LAKES AREA SENIOR CENTER:				8,698.73	8,698.73		
Vendor 0227 - LAKES PRINTING:							
00225586 87181	LAKES PRINTING BUSINESS CARDS: K.HEUTHER/L.ASBACH 230-5200-43350 230-5200-43350 101-1700-43350 235-3100-43350	02/11/2025 pziemer	03/19/2025	83.10	83.10	Open	N 03/19/2025
	PRINTING/LEGAL PUBLICATION			51.93			
	PRINTING/LEGAL PUBLICATION			15.59			
	PRINTING/LEGAL PUBLICATION			12.47			
	PRINTING/LEGAL PUBLICATION			3.11			

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
Total for vendor 0227 - LAKES PRINTING:				83.10	83.10		
Vendor 0232 - LEAGUE MN CITIES INS TRUS:							
10002612/2ND 2025							
87149	LEAGUE MN CITIES INS TRUS	03/04/2025	03/19/2025	74,797.25	74,797.25	Open	N
	2ND QTR 2025 WORK COMP PREMIUM	pziemer					03/19/2025
	280-0000-41150	WORKERS COMP		62,546.25			
	101-1110-41150	WORKERS COMP		12.25			
	225-2225-41150	WORKERS COMP		12,238.75			
Total for vendor 0232 - LEAGUE MN CITIES INS TRUS:				74,797.25	74,797.25		
Vendor 0233 - LEAGUE OF MN CITIES:							
425341							
87222	LEAGUE OF MN CITIES	03/06/2025	03/19/2025	60.00	60.00	Open	N
	2025 SAFETY & LOSS WORKSHOP - KS, NB,	pziemer					03/19/2025
	101-1400-43330	PROFESSIONAL DEVELOPMENT		60.00			
Total for vendor 0233 - LEAGUE OF MN CITIES:				60.00	60.00		
Vendor 3611 - MCMA:							
2025 BROYLES							
87163	MCMA	03/01/2025	03/19/2025	200.32	200.32	Open	N
	2025 MEMBERSHIP - N.BROYLES	pziemer					03/19/2025
	101-1400-43433	DUES & SUBSCRIPTIONS		200.32			
Total for vendor 3611 - MCMA:				200.32	200.32		
Vendor 0247 - MED COMPASS INC:							
47071							
87267	MED COMPASS INC	02/19/2025	03/19/2025	130.00	130.00	Open	N
	QTY 1 FIT TEST	pziemer					03/19/2025
	225-2220-43300	PROFESSIONAL SERVICES		130.00			
47072							
87268	MED COMPASS INC	02/24/2025	03/19/2025	5,470.00	5,470.00	Open	N
	QTY 35 PHYSICALS	pziemer					03/19/2025
	225-2220-43300	PROFESSIONAL SERVICES		5,470.00			
Total for vendor 0247 - MED COMPASS INC:				5,600.00	5,600.00		
Vendor 2392 - MENARDS:							
39776							
87189	MENARDS	02/28/2025	03/19/2025	151.82	151.82	Open	N
	BROOM AND SQUEEGEE - SHOP	pziemer					03/19/2025
	235-3100-42220	REPAIR & MAINT		151.82			
Total for vendor 2392 - MENARDS:				151.82	151.82		

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
Vendor 0889 - MENARDS - BAXTER:							
39559 87162	MENARDS - BAXTER CONCRETE MIX - PARKS 230-5200-42220	02/25/2025 pziemer	03/19/2025	16.76	16.76	Open	N 03/19/2025
	REPAIR & MAINT			16.76			
39788 87212	MENARDS - BAXTER CABINETS - TRANSIT OFFICE 400-1940-45500	02/28/2025 pziemer	03/19/2025	899.55	899.55	Open	N 03/19/2025
	CITY HALL (GENERAL) CAPITAL OUTLAY			899.55			
40116 87252	MENARDS - BAXTER REPLACEMENT GRILLE W/LHT 230-5200-42220	03/05/2025 pziemer	03/19/2025	25.77	25.77	Open	N 03/19/2025
	REPAIR & MAINT			25.77			
Total for vendor 0889 - MENARDS - BAXTER:				942.08	942.08		
Vendor 3394 - MIDWEST MACHINERY CO:							
10374034 87227	MIDWEST MACHINERY CO FILTERS/MOWER BLADES 230-5200-42220	03/06/2025 pziemer	03/19/2025	1,089.36	1,089.36	Open	N 03/19/2025
	REPAIR & MAINT			1,089.36			
10374516 87234	MIDWEST MACHINERY CO SWEEPER 118 & 111 FILTERS 235-3100-42220	03/06/2025 pziemer	03/19/2025	835.35	835.35	Open	N 03/19/2025
	REPAIR & MAINT			835.35			
Total for vendor 3394 - MIDWEST MACHINERY CO:				1,924.71	1,924.71		
Vendor 0272 - MTI DISTRIBUTING CO:							
1463461-01 87255	MTI DISTRIBUTING CO SCARIFIER TEETH X3 230-5200-42220	02/27/2025 pziemer	03/19/2025	1,479.84	1,479.84	Open	N 03/19/2025
	REPAIR & MAINT			1,479.84			
1463461-00 87256	MTI DISTRIBUTING CO ROTARY BLADE REPLACEMENTS 230-5200-42220	02/26/2025 pziemer	03/19/2025	683.94	683.94	Open	N 03/19/2025
	REPAIR & MAINT			683.94			
Total for vendor 0272 - MTI DISTRIBUTING CO:				2,163.78	2,163.78		
Vendor 0273 - NAPA AUTO PARTS:							
783413 87194	NAPA AUTO PARTS FLOOR DRY 225-2220-42210	02/20/2025 pziemer	03/19/2025	74.72	74.72	Open	N 03/19/2025
	OPERATING SUPPLIES			74.72			

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786708 87269	NAPA AUTO PARTS LED LAMP & CLEANER 225-2220-42220 225-2220-42210	03/06/2025 pziemer	03/19/2025	40.11 24.12 15.99	40.11	Open	N 03/19/2025
	REPAIR & MAINT OPERATING SUPPLIES						
	Total for vendor 0273 - NAPA AUTO PARTS:			114.83	114.83		

Vendor 3018 - NORTH COUNTRY JANITORIAL & SUPPLY I:

FEB 25/PD 87143	NORTH COUNTRY JANITORIAL & SUPPLY I FEB 25 JANITORIAL POLICE DEPT 225-2120-43300	03/01/2025 pziemer	03/19/2025	1,093.00 1,093.00	1,093.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES						
FEB 25/CH 87144	NORTH COUNTRY JANITORIAL & SUPPLY I FEB 25 CITY HALL JANITORIAL 101-1940-43300	03/01/2025 pziemer	03/19/2025	1,077.00 1,077.00	1,077.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES						
FEB 25/FD 87145	NORTH COUNTRY JANITORIAL & SUPPLY I FEB 25 JANITORIAL FIRE DEPT 225-2220-43300	03/01/2025 pziemer	03/19/2025	383.00 383.00	383.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES						
FEB 25/PW 87146	NORTH COUNTRY JANITORIAL & SUPPLY I FEB 25 JANITORIAL PW GARAGE 230-5200-43300 235-3100-43300	03/01/2025 pziemer	03/19/2025	382.00 191.00 191.00	382.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES PROFESSIONAL SERVICES						
	Total for vendor 3018 - NORTH COUNTRY JANITORIAL & SUPPLY I:			2,935.00	2,935.00		

Vendor 1153 - NORTHLAND ARBORETUM:

MARCH 2025 87233	NORTHLAND ARBORETUM MAR 25 LEVY PAYMENT 101-9200-43462	03/06/2025 pziemer	03/19/2025	8,698.73 8,698.73	8,698.73	Open	N 03/19/2025
	REMIT ARBORETUM LEVY						
	Total for vendor 1153 - NORTHLAND ARBORETUM:			8,698.73	8,698.73		

Vendor 0284 - OFFICE SHOP:

1152521-0 87151	OFFICE SHOP POST ITS 101-1940-42200	03/05/2025 pziemer	03/19/2025	4.25 4.25	4.25	Open	N 03/19/2025
	OFFICE SUPPLIES						
335394-0 87165	OFFICE SHOP COPIER LEASE - FIRE DEPT	02/26/2025 pziemer	03/19/2025	48.76	48.76	Open	N 03/19/2025

Inv Num Inv Ref#	Vendor Description	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
	GL Distribution						
	225-2220-43331	LEASED PAYMENTS		48.76			
1152521-1 87243	OFFICE SHOP	03/07/2025	03/19/2025	6.74	6.74	Open	N 03/19/2025
	COFFEE CUPS FOR MEETINGS	pziemer					
	101-9200-43430	MISCELLANEOUS		6.74			
	Total for vendor 0284 - OFFICE SHOP:			59.75	59.75		
Vendor 2137 - O'REILLY AUTOMOTIVE STORES INC.:							
1647-339072 87271	O'REILLY AUTOMOTIVE STORES INC.	03/10/2025	03/19/2025	17.99	17.99	Open	N 03/19/2025
	SHOP TOWELS	pziemer					
	225-2120-42220	REPAIR & MAINT		17.99			
	Total for vendor 2137 - O'REILLY AUTOMOTIVE STORES INC.:			17.99	17.99		
Vendor 0561 - PEOPLES SECURITY:							
263820 87257	PEOPLES SECURITY	02/28/2025	03/19/2025	23.99	23.99	Open	N 03/19/2025
	SECURITY MONITORING	pziemer					
	211-5500-42220	REPAIR & MAINT		23.99			
	Total for vendor 0561 - PEOPLES SECURITY:			23.99	23.99		
Vendor 0521 - PITNEY BOWES INC:							
3107136420 87277	PITNEY BOWES INC	03/11/2025	03/19/2025	398.82	398.82	Open	N 03/19/2025
	1/30/25-4/29/25 POSTAGE LEASE	pziemer					
	101-1940-43331	LEASE PAYMENTS		398.82			
	Total for vendor 0521 - PITNEY BOWES INC:			398.82	398.82		
Vendor 4185 - SRF CONSULTING GROUP:							
16811.00-19 87235	SRF CONSULTING GROUP	02/28/2025	03/19/2025	1,092.81	1,092.81	Open	N 03/19/2025
	TH 210 WATERMAIN & SAN/SWR RELOCATION	pziemer					
	401-9030-23:05	PROFESSIONAL SERVICES		1,092.81			
	Total for vendor 4185 - SRF CONSULTING GROUP:			1,092.81	1,092.81		
Vendor 0322 - STREICHERS PROF EQUIP:							
I1748795 87208	STREICHERS PROF EQUIP	02/26/2025	03/19/2025	139.98	139.98	Open	N 03/19/2025
	727 UNIFORM SHIRT X2	pziemer					
	225-2120-41113	UNIFORM ALLOWANCE		139.98			
	Total for vendor 0322 - STREICHERS PROF EQUIP:			139.98	139.98		

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
Vendor 4392 - STRYKER SALES LLC:							
9208560231 87253	STRYKER SALES LLC AED REPLACEMENT PADS 225-2120-42209	02/21/2025 pziemer	03/19/2025	111.00	111.00	Open	N 03/19/2025
	SAFETY EQUIPMENT SUPPLIES			111.00			
	Total for vendor 4392 - STRYKER SALES LLC:			111.00	111.00		
Vendor 0145 - TREAS, FIRE RELIEF ASSOC:							
3/13/25 87295	TREAS, FIRE RELIEF ASSOC REMIT FF SBR REIMBURSEMENT 225-2225-43473	03/13/2025 pziemer	03/19/2025	1,000.00	1,000.00	Open	N 03/19/2025
	REMIT STATE FIRE AID			1,000.00			
	Total for vendor 0145 - TREAS, FIRE RELIEF ASSOC:			1,000.00	1,000.00		
Vendor 3686 - UHL COMPANY INC:							
78900 87192	UHL COMPANY INC ANNUAL ALARM MONITORING - CITY HALL 101-1940-42220	03/03/2025 pziemer	03/19/2025	360.00	360.00	Open	N 03/19/2025
	REPAIR & MAINT			360.00			
	Total for vendor 3686 - UHL COMPANY INC:			360.00	360.00		
Vendor 0039 - VESTIS:							
2530376529 87156	VESTIS RUGS AND OVERALLS 235-3100-43430	02/27/2025 pziemer	03/19/2025	91.58	91.58	Open	N 03/19/2025
	MISCELLANEOUS			91.58			
2530379003 87236	VESTIS RUGS AND OVERALLS 235-3100-43430	03/06/2025 pziemer	03/19/2025	65.85	65.85	Open	N 03/19/2025
	MISCELLANEOUS			65.85			
	Total for vendor 0039 - VESTIS:			157.43	157.43		
Vendor 0344 - WASTE PARTNERS INC:							
52X00870 87167	WASTE PARTNERS INC FEB 2025 PW GARAGE WASTE REMOVAL 235-3100-43380	02/28/2025 pziemer	03/19/2025	128.70	128.70	Open	N 03/19/2025
	UTILITIES			64.35			
	UTILITIES			64.35			
52X00871 87168	WASTE PARTNERS INC FEB 25 FIRE DEPT WASTE REMOVAL 225-2220-43380	02/28/2025 pziemer	03/19/2025	128.70	128.70	Open	N 03/19/2025
	UTILITIES			128.70			

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
52X00872 87169	WASTE PARTNERS INC FEB 25 CITY HALL WASTE REMOVAL 101-1940-43380 UTILITIES	02/28/2025 pziemer	03/19/2025	163.05 163.05	163.05	Open	N 03/19/2025
52X00873 87170	WASTE PARTNERS INC FEB 25 DOWNTOWN WASTE REMOVAL 401-1003-43300 PROFESSIONAL SERVICES	02/28/2025 pziemer	03/19/2025	211.77 211.77	211.77	Open	N 03/19/2025
52X00874 87171	WASTE PARTNERS INC FEB 25 POLICE DEPT WASTE REMOVAL 225-2120-43380 UTILITIES	02/28/2025 pziemer	03/19/2025	157.70 157.70	157.70	Open	N 03/19/2025
52X00875 87172	WASTE PARTNERS INC FEB 25 WASTE OIL LOCATION 227-3230-43428 USED OIL RECYCLING EXPENSE	02/28/2025 pziemer	03/19/2025	76.05 76.05	76.05	Open	N 03/19/2025
52X00876 87173	WASTE PARTNERS INC FEB 25 PARKS WASTE REMOVAL 230-5200-43380 UTILITIES	02/28/2025 pziemer	03/19/2025	468.00 468.00	468.00	Open	N 03/19/2025
52X00468 87221	WASTE PARTNERS INC FEB 25 LIBRARY WASTE REMOVAL 211-5500-43380 UTILITIES	02/28/2025 pziemer	03/19/2025	102.83 102.83	102.83	Open	N 03/19/2025
Total for vendor 0344 - WASTE PARTNERS INC:				1,436.80	1,436.80		

Vendor 0888 - WEST BRAINERD AUTO SERVICE:

048275 87177	WEST BRAINERD AUTO SERVICE TOW: STOLEN VEHICLE 25002874 225-2120-42210 OPERATING SUPPLIES	03/02/2025 pziemer	03/19/2025	90.00 90.00	90.00	Open	N 03/19/2025
Total for vendor 0888 - WEST BRAINERD AUTO SERVICE:				90.00	90.00		

Vendor 3199 - WEX BANK:

103160206/ADM 87213*	WEX BANK FEB 2025 ADMIN FUEL 101-1940-42212 MOTOR FUELS 101-0000-36299 MISCELLANEOUS REVENUE (NONTAX)	02/28/2025 pziemer	03/19/2025	15.40 29.26 (13.86)	15.40	Open	N 03/19/2025
103160206/CDD 87214	WEX BANK FEB 2025 COM DEV FUEL	02/28/2025 pziemer	03/19/2025	194.02	194.02	Open	N 03/19/2025

Inv Num Inv Ref#	Vendor Description	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
	GL Distribution						
	101-2400-42212	MOTOR FUELS		188.02			
	101-2400-42220	REPAIR & MAINT		6.00			
103160206/ENG 87215	WEX BANK	02/28/2025	03/19/2025	70.29	70.29	Open	N 03/19/2025
	FEB 2025 ENG FUEL	pziemer					
	238-3160-42212	MOTOR FUELS		32.14			
	238-3160-42220	REPAIR & MAINT		3.00			
	238-0000-13200	DUE FROM OTHER GOVTS		35.15			
103160206/FD 87216	WEX BANK	02/28/2025	03/19/2025	1,625.42	1,625.42	Open	N 03/19/2025
	FEB 25 FIRE DEPT FUEL	pziemer					
	225-2220-42212	MOTOR FUELS		1,625.42			
103160206/PKS 87217*	WEX BANK	02/28/2025	03/19/2025	933.49	933.49	Open	N 03/19/2025
	FEB 25 PARKS DEPT FUEL	pziemer					
	230-5200-42212	MOTOR FUELS		934.56			
	230-5200-42212	MOTOR FUELS		(1.07)			
103160206/PD 87218*	WEX BANK	02/28/2025	03/19/2025	4,937.82	4,937.82	Open	N 03/19/2025
	FEB 25 POLICE DEPT FUEL	pziemer					
	225-2120-42212	MOTOR FUELS		5,020.58			
	225-2120-42212	MOTOR FUELS		(82.76)			
103160206/STRTS 87219	WEX BANK	02/28/2025	03/19/2025	8,926.22	8,926.22	Open	N 03/19/2025
	FEB 2025 STREET DEPT FUEL	pziemer					
	237-3190-42212	MOTOR FUELS		54.96			
	235-3100-42212	MOTOR FUELS		8,871.26			
103160206/TRANSIT 87220*	WEX BANK	02/28/2025	03/19/2025	6,433.90	6,433.90	Open	N 03/19/2025
	FEB 25 TRANSIT DEPT FUEL	pziemer					
	203-9000-42212	MOTOR FUELS		6,480.13			
	203-9000-42212	MOTOR FUELS		(46.23)			
	Total for vendor 3199 - WEX BANK:			23,136.56	23,136.56		

Vendor 1159 - WINNERS TROPHY:

13711 87161	WINNERS TROPHY	02/27/2025	03/19/2025	64.00	64.00	Open	N 03/19/2025
	NAMEPLATES - PLANNING COMMISSION	pziemer					
	101-2400-43430	MISCELLANEOUS		64.00			
13710 87178	WINNERS TROPHY	02/27/2025	03/19/2025	74.95	74.95	Open	N 03/19/2025
	OFFICER OF THE YEAR AWARD	pziemer					
	225-2120-43300	PROFESSIONAL SERVICES		74.95			

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DB: Brainerd

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
13713 87228	WINNERS TROPHY 2025 POND HOCKEY AWARDS 230-5209-42210	02/28/2025 pziemer	03/19/2025	20.00	20.00	Open	N 03/19/2025
	OPERATING SUPPLIES			20.00			
	Total for vendor 1159 - WINNERS TROPHY:			158.95	158.95		

Vendor 1712 - WSB & ASSOCIATES:

R-026252-000-7

87157	WSB & ASSOCIATES 24:07 LOWELL SRTS JAN 2025 401-9030-43300-24:07	02/27/2025 pziemer	03/19/2025	8,349.00	8,349.00	Open	N 03/19/2025
	PROFESSIONAL SERVICES			8,349.00			
	Total for vendor 1712 - WSB & ASSOCIATES:			8,349.00	8,349.00		

Vendor 0354 - ZIEGLER, INC:

IN001828161

87239	ZIEGLER, INC UTILITY STORAGE BOX 235-3100-42220	03/07/2025 pziemer	03/19/2025	68.66	68.66	Open	N 03/19/2025
	REPAIR & MAINT			68.66			

IN001797489

87262	ZIEGLER, INC GRADER 113 STEERING TIE ROD 235-3125-42220	02/07/2025 pziemer	03/19/2025	203.66	203.66	Open	N 03/19/2025
	REPAIR & MAINT			203.66			
	Total for vendor 0354 - ZIEGLER, INC:			272.32	272.32		

# of Invoices:	129	# Due:	129	Totals:	430,624.49	430,624.49
# of Credit Memos:	1	# Due:	1	Totals:	(27,499.00)	(27,499.00)
Net of Invoices and Credit Memos:					403,125.49	403,125.49

* 4 Net Invoices have Credits Totalling:	(143.92)
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--- TOTALS BY GL DISTRIBUTION ---

101-0000-15510	PREPAID OTHER	1,966.98
101-0000-20850	DUE TO COMPONENT UNIT	89.76
101-0000-36299	MISCELLANEOUS REVENUE (NONTAX)	(13.86)
101-1110-41150	WORKERS COMP	12.25
101-1400-43330	PROFESSIONAL DEVELOPMENT	60.00
101-1400-43433	DUES & SUBSCRIPTIONS	200.32
101-1700-43331	LEASE PAYMENTS	1,703.92
101-1700-43350	PRINTING/LEGAL PUBLICATION	12.47
101-1800-42210	OPERATING SUPPLIES	1,674.45
101-1800-42220	REPAIR & MAINT	381.52
101-1800-43309	COMPUTER SUPPORT	6,948.62
101-1800-43321	TELEPHONE	345.29
101-1940-42200	OFFICE SUPPLIES	4.25
101-1940-42212	MOTOR FUELS	29.26
101-1940-42220	REPAIR & MAINT	397.55

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
101-1940-43300	PROFESSIONAL SERVICES			1,077.00			
101-1940-43331	LEASE PAYMENTS			398.82			
101-1940-43380	UTILITIES			163.05			
101-2400-42212	MOTOR FUELS			188.02			
101-2400-42220	REPAIR & MAINT			6.00			
101-2400-43331	LEASE EXPENSE			890.66			
101-2400-43350	PRINTING/LEGAL PUBLICATION			304.05			
101-2400-43430	MISCELLANEOUS			64.00			
101-9200-43300	PROFESSIONAL SERVICES			7,975.00			
101-9200-43350	LEGAL PUBLICATIONS			136.47			
101-9200-43430	MISCELLANEOUS			6.74			
101-9200-43460	REMIT COMMUNITY ACTION LEVY			8,698.73			
101-9200-43461	REMIT SENIOR CITIZEN LEVY			8,698.73			
101-9200-43462	REMIT ARBORETUM LEVY			8,698.73			
203-9000-42212	MOTOR FUELS			6,433.90			
203-9000-43350	PRINTING/LEGAL PUBLICATION			38.54			
211-5500-42220	REPAIR & MAINT			23.99			
211-5500-43300	PROFESSIONAL SERVICES			675.00			
211-5500-43380	UTILITIES			102.83			
211-5505-43430	MISC - COPY MACHINE PYMTS			97.70			
225-2120-41113	UNIFORM ALLOWANCE			400.11			
225-2120-42209	SAFETY EQUIPMENT SUPPLIES			111.00			
225-2120-42210	OPERATING SUPPLIES			206.62			
225-2120-42212	MOTOR FUELS			4,937.82			
225-2120-42220	REPAIR & MAINT			23.38			
225-2120-43300	PROFESSIONAL SERVICES			1,167.95			
225-2120-43330	PROFESSIONAL DEVELOPMENT			48.76			
225-2120-43331	LEASED PAYMENTS			12,328.35			
225-2120-43380	UTILITIES			204.21			
225-2220-42210	OPERATING SUPPLIES			573.65			
225-2220-42212	MOTOR FUELS			1,625.42			
225-2220-42220	REPAIR & MAINT			205.36			
225-2220-42221	R&M BUILDING			59.00			
225-2220-42250	PERSONAL PROTECTIVE GEAR			3,935.25			
225-2220-43300	PROFESSIONAL SERVICES			5,983.00			
225-2220-43331	LEASED PAYMENTS			1,882.12			
225-2220-43380	UTILITIES			128.70			
225-2225-41150	WORKERS COMP			12,238.75			
225-2225-43473	REMIT STATE FIRE AID			1,000.00			
225-2700-43300	PROFESSIONAL SERVICES			1,919.33			
225-2700-43430	MISCELLANEOUS			3,022.00			
227-3230-43428	USED OIL RECYCLING EXPENSE			76.05			
230-0000-39101	SALE OF ASSETS			(18,899.00)			
230-5200-42212	MOTOR FUELS			933.49			
230-5200-42220	REPAIR & MAINT			4,182.63			
230-5200-43300	PROFESSIONAL SERVICES			191.00			
230-5200-43331	LEASE PAYMENTS			5,411.91			
230-5200-43350	PRINTING/LEGAL PUBLICATION			67.52			
230-5200-43380	UTILITIES			532.35			
230-5209-42210	OPERATING SUPPLIES			20.00			
230-5209-42220	REPAIR & MAINT			13.00			
235-3100-42212	MOTOR FUELS			8,871.26			
235-3100-42220	REPAIR & MAINT			2,642.08			
235-3100-43300	PROFESSIONAL SERVICES			191.00			
235-3100-43331	LEASE PAYMENTS			4,085.15			
235-3100-43350	PRINTING/LEGAL PUBLICATION			607.61			
235-3100-43380	UTILITIES			64.35			

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
	235-3100-43410	RENTAL EXPENSE		78.41			
	235-3100-43430	MISCELLANEOUS		228.73			
	235-3125-42220	REPAIR & MAINT		463.06			
	235-3170-42210	OPERATING SUPPLIES		920.00			
	236-0000-15510	PREPAID		4,011.77			
	236-3180-43430	MISCELLANEOUS		12,035.29			
	237-3190-42212	MOTOR FUELS		54.96			
	237-3190-42220	REPAIR & MAINT		2,015.28			
	237-3190-43331	LEASE PAYMENTS		1,879.16			
	237-3190-46611	INTEREST PAYMENTS		23,633.63			
	238-0000-13200	DUE FROM OTHER GOVTS		462.79			
	238-3160-42212	MOTOR FUELS		32.14			
	238-3160-42220	REPAIR & MAINT		3.00			
	238-3160-43331	LEASE PAYMENTS		427.65			
	251-9360-43467	REMIT LOCAL SALES TAX COLLECT		160,907.85			
	280-0000-41150	WORKERS COMP		62,546.25			
	295-0000-20600	DEPOSITS PAYABLE		397.50			
	400-0000-39101	SALE OF ASSETS		(8,543.00)			
	400-1481-43430	MISCELLANEOUS		89.97			
	400-1940-45500	CITY HALL (GENERAL) CAPITAL OUTLAY		899.55			
	401-1003-43300	PROFESSIONAL SERVICES		211.77			
	401-9030-43300-23:05	PROFESSIONAL SERVICES		1,092.81			
	401-9030-43300-23:16	PROFESSIONAL SERVICES		11,446.00			
	401-9030-43300-24:07	PROFESSIONAL SERVICES		8,349.00			

Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
--- TOTALS BY FUND ---							
	101 - GENERAL FUND			51,118.78	51,118.78		
	203 - TRANSIT FUND			6,472.44	6,472.44		
	211 - LIBRARY FUND			899.52	899.52		
	225 - PUBLIC SAFETY FUND			52,000.78	52,000.78		
	227 - RECYCLING FUND			76.05	76.05		
	230 - PARK & RECREATION FUND			(7,547.10)	(7,547.10)		
	235 - STREET & SEWER FUND			18,151.65	18,151.65		
	236 - PARKING LOT FUND			16,047.06	16,047.06		
	237 - SANITARY SEWER FUND			27,583.03	27,583.03		
	238 - STORM SEWER FUND			925.58	925.58		
	251 - LOCAL OPTION SALES TAX			160,907.85	160,907.85		
	280 - PACKAGE INSURANCE FUND			62,546.25	62,546.25		
	295 - EDA FUND			397.50	397.50		
	400 - CAPITAL PROJECTS FUND			(7,553.48)	(7,553.48)		
	401 - CONSTRUCTION FUND			21,099.58	21,099.58		
--- TOTALS BY DEPT/ACTIVITY ---							
	0000 -			42,019.19	42,019.19		
	1003 - 10:03 DWNTWN MAIN CNTRACT			211.77	211.77		
	1110 - MAYOR & COUNCIL			12.25	12.25		
	1400 - ADMINISTRATION			260.32	260.32		
	1481 - HISTORIC WATER TOWER REPA			89.97	89.97		
	1700 - ENGINEERING			1,716.39	1,716.39		
	1800 - IT/GIS			9,349.88	9,349.88		
	1940 - CITY HALL			2,969.48	2,969.48		
	2120 - POLICE DEPARTMENT			19,428.20	19,428.20		
	2220 - FIRE DEPARTMENT			14,392.50	14,392.50		
	2225 - PAID ON-CALL FIRE DEPT			13,238.75	13,238.75		
	2400 - COMMUNITY DEVL/INSPECTION			1,452.73	1,452.73		
	2700 - ANIMAL CONTROL			4,941.33	4,941.33		
	3100 - S & S MAINTENANCE			16,768.59	16,768.59		
	3125 - SNOW REMOVAL			463.06	463.06		
	3160 - STORM SEWER EXPENSE			462.79	462.79		
	3170 - TRAFFIC CONTROL			920.00	920.00		
	3180 - PARKING LOTS EXPENSE			12,035.29	12,035.29		
	3190 - SANITARY SEWER EXPENSE			27,583.03	27,583.03		
	3230 - RECYCLING EXPENSE			76.05	76.05		
	5200 - PARK MAIN/ADMINISTRATION			11,318.90	11,318.90		
	5209 - POND HOCKEY PROGRAM			33.00	33.00		
	5500 - LIBRARY-BUDGETED			801.82	801.82		
	5505 - TAXABLE FEES			97.70	97.70		
	9000 - TRANSIT FUND			6,472.44	6,472.44		

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Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
--- TOTALS BY DEPT/ACTIVITY ---							
	9030 - CONSTRUCTION PROJ-MISC			20,887.81	20,887.81		
	9200 - CITY-WIDE			34,214.40	34,214.40		
	9360 - LOCAL OPTION SALES TAX			160,907.85	160,907.85		

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:30 P.M. by Council President O'Day.

Upon roll call the following Members were noted as present: Bevans, Johnson, Czeczok, Stunek, Yeager, Erickson, and O'Day. Mayor Badeaux was also noted as present.

Chair O'Day led the Pledge of Allegiance to the flag.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND BEVANS, DULY CARRIED, TO APPROVE THE AGENDA WITH THE ADDITION OF APPROVAL OF MEMORANDUM OF AGREEMENT WITH IBEW ADMINISTRATIVE SUPPORT UNION FOR TECHNOLOGY POSITIONS TO PERSONNEL AND FINANCE.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND JOHNSON TO APPROVE THE CONSENT CALENDAR.

- A. **Approval of Bills**
- B. **Approval of Minutes**
- C. **Department Activity Report**
- D. **Approve New On-Sale Liquor License Application Submitted by Burritos California Mexican Grill LLC at 302 Washington St**
- E. **Adopt Resolution Accepting 4th Quarter Donations**
- F. **Approve Event/Street Closure Application- St. Patrick's Day**

Upon roll call, Council Members Bevans, Johnson, Czeczok, Stunek, Yeager, Erickson, and O'Day voted "aye". No member voted "nay". The Chair declared the motion carried.

Public Forum

The Chair opened the public forum at 7:31 p.m.

Paul Skogen, 13347 Norway Dr, Baxter gave an update on the Water Tower. The windows are complete and will be installed when the frost goes out of the ground. Business After Hours will take place in June at the Water Tower, all are invited. The committee still needs to raise \$2.5 million for the exterior stucco.

The Chair closed the public forum at 7:34 p.m.

Council Committee Reports

Safety and Public Works Committee

Authorize Advertisement for Bids - Imp 25-01 - 2025 Chip Sealing Project

Committee Chair Erickson stated that the engineers estimate was about \$10,000 over budget. Staff will communicate with the bidders regarding add/alternates and discuss depending on where the bids come in.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND YEAGER, DULY CARRIED, TO BID THE CHIP SEAL PROJECT WITH THE STREETS LISTED AND DISCUSS ONCE ACTUAL BIDS ARE RECEIVED.

Authorize Advertisement for Bids - Lowell Safe Routes to School

Committee Chair Erickson stated that the project funding is a State grant without a local match.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND CZECZOK, DULY CARRIED, TO AUTHORIZE ADVERTISEMENT THE LOWELL SAFE ROUTES TO SCHOOL PROJECT FOR BIDS.

Award Proposal - 2025 Downtown Plantings

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND YEAGER, DULY CARRIED, TO APPROVE THE LANDSBURG LANDSCAPE NURSERY QUOTE IN THE AMOUNT OF \$11,607.

Award Proposal - M Street Stormwater Outfall Repair Engineering Services

Committee Chair Erickson stated that the committee did not have a recommendation due to a distinct delta between the two proposals. They asked staff to return to the proposers to make them more easily comparable.

Member Czeczok stated that there was a motion at committee that failed 2-1 to award the proposal to WSB. The Council can make a motion without a committee recommendation. He recommends accepting the proposal from WSB.

Member Johnson asked for clarification on why the Committee didn't make a recommendation.

Member Yeager stated that he was the committee member that motioned for the denial of the award. The two proposals were so vastly different, he believes that the scope needs to be cleaned up so that the proposals can be more comparable. Both firms seemingly had the information but were so different.

Member Bevans stated that staff recommended WSB, so the proposals must have been accurate.

City Engineer Dehn stated that the firms were given very specific scope of services. The add/alternate was included in one of the proposals and not the other.

Chair O'Day asked about the erosion that this project is fixing and the start date. Whether delaying this decision by two weeks would affect the timeline.

City Engineer Dehn stated that staff made improvements to the project area to sustain it for the winter, it has not been evaluated since the spring thaw began. Delaying the decision will not be detrimental, however, the proposals are already public so it is unlikely that one of the firms would want to change their numbers.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND BEVANS, DULY CARRIED, TO AWARD PROPOSAL OF M STREET STORMWATER OUTFALL REPAIR ENGINEERING SERVICES TO WSB IN THE AMOUNT OF \$29,700.

Personnel and Finance Committee

Approve Revised Special Assessment Policy

Committee Chair Johnson stated that the proposed policy included interest for a term of thirty years for economic hardship deferrals.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND BEVANS, DULY CARRIED, TO DIRECT STAFF TO COME TO THE NEXT PERSONNEL AND FINANCE MEETING WITH AN UPDATED ASSESSMENT POLICY THAT TREATS UNDEVELOPED PROPERTIES DIFFERENTLY THAN ECONOMIC HARDSHIP ASSESSMENTS AND CONNECTION CHARGES.

Approve Library Exterior and Mechanical Repairs Proposal

Committee Chair Johnson stated that the City budgeted \$425,000. The proposal for the scope is \$338,461. With this recommendation the council will not be expending the additional funds.

Member Czczok questioned leaving out the recommendation to use the additional funds for the Maple parking lot.

Member Johnson stated that the parking lot resurface should be funded by the parking lot funds. There isn't money in the fund right now, but there is a way to raise money in that fund by leasing out spaces.

Mayor Badeaux stated that he appreciates the government not spending money it doesn't need to spend.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE HYTEC CONSTRUCTION PROPOSAL UTILIZING THE SCOPE NOT REPLACING THE ASPHALT SHINGLES OR RESURFACING OF THE MAPLE LOT.

Consider Municipal Dispensary License Application

Committee Chair Johnson stated that the deadline for municipalities to apply for a municipal license is March 14th. Staff are unsure whether the license window will ever open again. The question is whether to expend the money to apply for the license in case the City decides whether to pursue a municipal license or not. This vote was a split vote out of committee, two in favor.

Member Stunek stated that he voted against the motion in committee. If we allow this to happen, what will be next.

Member Czczok asked about other costs once the City has applied. He also asked about cannabis being illegal federally whether there is risk to the City funding.

Member Johnson listed the known future costs including the application fee and renewal fees. The cost that is unknown is how it will affect the cost of a new insurance policy.

Community Development Director Kramvik stated that there isn't any data yet on how a municipal dispensary could affect federal funding the City would receive in the future.

Attorney Langel stated that it is too early to know the risks.

Chair O'Day stated that there is potential for revenue by the City. This is a question of whether the City wants to be more in control of the cannabis business in the City.

Member Czczok stated he will vote no. The City has other things that it needs to handle before we start venturing into the business. The private sector is better suited.

Mayor Badeaux stated that the City of Brainerd has made no investment toward a municipal dispensary other than considering this license. He does like that there are local interests. He supports the small expenditure to learn more about the process.

Member Erickson stated that his concern was also about the violation of Federal law.

MOVED AND SECONDED BY COUNCIL MEMBERS BEVANS TO APPLY FOR THE MUNICIPAL DISPENSARY LICENSE.

Upon roll call, Council Members Bevans, Johnson, and O'Day voted "aye". Members Erickson, Czczok, Stunek, and Yeager voted "nay". The Chair declared the motion failed.

Accept Resignation of CSO Joshua Winslow

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT MR. JOSHUA WINSLOW'S RESIGNATION EFFECTIVE MARCH 5, 2025, AND TO AUTHORIZE STAFF TO BACKFILL THE POSITION.

Accept the Resignation of Lineworker Travis Donnelly

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND BEVANS, DULY CARRIED, TO ACCEPT MR. DONNELLY'S RESIGNATION EFFECTIVE FEBRUARY 28, 2025; FURTHER, TO AUTHORIZE STAFF TO BEGIN THE HIRING PROCESS TO BACKFILL THE POSITION.

Ratify Hiring of Wyatt Pribyl for Street Maintenance I Position

Committee Chair Johnson stated that there were 44 applicants of which 4 were interviewed for the position. The justification for placing Mr. Pribyl on step 3 is that he comes from a different street department, he has his CDL and is a DOT inspector.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO RATIFY THE HIRING OF WYATT PRIBYL FOR THE STREET MAINTENANCE I POSITION EFFECTIVE MARCH 17, 2025; FURTHER, THAT HE BE PLACED ON STEP 3 OF THE MAINTENANCE I WAGE GRID (\$28.20 PER HOUR).

Fire Contract Formula for 2026 - Informational

Committee Chair Johnson stated that all of the information is provided. The City of Brainerd's cost is increasing by \$17,500 in 2026. He requested that staff review the formula.

Approve Memorandum of Agreement with IBEW Administrative Support Union for Technology Positions (Added Item)

Committee Chair Johnson stated that the City met with the Union today about the positions. With this MOU the wages will be set, and the hiring process can begin.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE MEMORANDUM OF AGREEMENT WITH IBEW ADMINISTRATIVE SUPPORT UNION FOR TECHNOLOGY POSITIONS.

Unfinished Business

March 3, 2025

Accept Resignation of Patrick Wussow from the Public Utilities Commission

Member Czczok thanked Mr. Wussow for his dedication to Public Utilities.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND BEVANS, DULY CARRIED, TO ACCEPT RESIGNATION OF PATRICK WUSSOW FROM THE PUBLIC UTILITIES COMMISSION.

Council President- Committee Recommendation

Chair O'Day recommended Andrew Shipe to the Airport Commission.

Member Bevans stated that he will be voting no, as the Northside Neighborhood feels he does not meet their expectations of representation on the Park Board.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND YEAGER TO APPOINT ANDREW SHIPE TO THE AIRPORT COMMISSION.

Council Members Johnson, Czczok, Yeager, Erickson, and O'Day voted "aye". Members Bevans and Stunek voted "nay". The Chair declared the motion carried.

Call for Applicants – Informational:

Mayor Recommended: (terms to expire on 12/31 of said year)
Charter Commission – **2 terms** (Expire 2025) **2 terms** (Expire 2026)
Housing & Redevelopment Authority -- **1 term** (Expire 2027)
Library Board-- **1 term** (Expire 2027)
Public Utilities Commission—**1 term** (Expire 2028)
Transportation Advisory Committee- **2 terms** (Expire 2026)
Council President Recommended: (terms expire on 12/31 of said year)
Water Tower Committee—**3 terms**

Consider Public Utilities Commission Recommendation for Central Business District Incentive Policy

Community Development Director Kramvik gave an overview of the discussion at the Public Utilities Commission meeting. They continue to express concerns that all SAC/WAC charges should be forgiven.

Member Bevans asked how long the incentive will be in effect.

Community Development Director Kramvik stated that it expires in 2029.

Member Czczok stated that he sees a review by the Public Utilities Commission for anything over 4 housing units. The City should make sure that SAC/WAC is used when it is needed and encouraged all members to review the uses.

Chair O'Day stated that adding review by the Public Utilities Commission will encourage communication. The only thing he may see as an issue is that this will add time as the Public Utilities Commission only meets once a month.

Member Johnson stated that he will vote no, as it adds bureaucratic red tape. He thinks one way to improve communication would be adding the applications to the Public Utilities packet as a way to keep an eye on potential problems. He doesn't see the point in sending a

City fee to the Commission to review that then would need to return to the Council when there is already a policy in place to waive the fee. It is a City fee, not a Public Utility fee.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND BEVANS TO CZECZOK AND BEVANS TO RECOMMEND THAT THE PUBLIC UTILITIES COMMISSION REVIEW ALL SAC AND WAC FORGIVENESS AND PROVIDE A RECOMMENDATION TO COUNCIL IF THE PROJECT VALUATION EXCEEDS \$150,000.

Upon roll call, Council Members Czeczok, Erickson, and O'Day voted "aye". Members Bevans, Johnson, Stunek, Yeager voted "nay". The Chair declared the motion failed.

Member Johnson stated that the policy is published on the website.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND BEVANS, DULY CARRIED, TO LEAVE THE CENTRAL BUSINESS DISTRICT POLICY AS IS AND TO INCLUDE IN THE PUBLIC UTILITIES COMMISSION PACKET ALL FORGIVEN SAC/WAC FEE CHARGES.

New Business

Consider Preliminary Plat Request for St. Francis Church - 411 N 10th St

Community Development Director Kramvik gave an overview of the proposal. The Planning Commission recommended unanimously to approve the request with conditions.

City Engineer Dehn stated that the petition for vacation was received after the packet was distributed. He gave an overview of the vacation of that section of N 9th Street and recommends the vacation.

Member Johnson asked about the public benefit of eliminating this portion of N 9th Street.

City Engineer Dehn stated that the intent of the local street is to service adjacent properties. St. Francis owns most of the adjacent properties the public benefit is to themselves.

Member Czeczok asked whether the Council can ask for more information prior to vacating the street.

Community Development Director Kramvik stated that an approval tonight does not bind the City Council to a street vacation. A street vacation is a separate process. The point of a preliminary plat is to give the applicant feedback on their plan.

Father Garry, St. Francis Church, gave an overview of the plans and why they are important to St. Francis as well as the City of Brainerd.

Ed Shaw, 521 N 9th St, stated that the Church is a good neighbor. He is concerned about setting precedence for removing homes for parking lots and street vacations.

Member Yeager asked a question about the renderings of the rectory. He also asked whether adding 15 spaces of parking will be enough for the growth anticipated for the school.

Erica Markuson, 7804 Industrial Park Rd, Widseth, clarified that the 3-D rendering is the most accurate of the design. She clarified the parking plan.

MOVED BY MEMBER YEAGER TO DENY THE PRELIMINARY PLAT AND THAT THE PROPERTY REMAIN A TN-1 DISTRICT.

The Chair declared the motion failed for lack of second.

Member Johnson stated that he will support the motion but is not sold on the vacation of North 9th Street. He needs to see clearer plans to see what would be done with the street if it was vacated.

Member Erickson stated that he supports the plan. The vacation would calm traffic and make the street safer for the school.

Member Czczok asked to clarify whether approving this preliminary plat means that the street is vacated.

Community Development Director Kramvik stated that this motion does not vacate the street. There is a formal process to follow when vacating a street.

Mayor Badeaux stated that he supports St. Francis's plan. He complains most about parking lots as he supports on-street parking. He needs to see further plans for the project and information before finalizing the plans.

Chair O'Day stated that he is excited about this project, however, he has reservations about the street vacation. He needs more information. He trusts that St. Francis will do something beautiful in the neighborhood. However, he is also concerned about a large neighbor in the same neighborhood following suit and pursuing vacation. He thinks that it would be best just to start with the rectory until expansions of the church and school are planned so that their plans can move forward.

Member Czczok stated that it is the City Council's responsibility to know what is planned before approving.

Member Johnson stated that he will vote yes, even though he has reservations. He is optimistic that the plans will be prepared before moving forward further. He thinks the rectory is a slam dunk. The vacation would be best when expansion is planned.

MOVED AND SECONDED BY COUNCIL MEMBERS BEVANS AND ERICKSON TO APPROVE THE PRELIMINARY PLAT CONTINGENT UPON: VACATION OF N 9TH STREET BETWEEN IVY AND JUNIPER STREET, REZONING OF ALL PARCELS TO PUBLIC SEMI-PUBLIC DISTRICT, AND APPROVAL OF THE DEVELOPMENT AGREEMENT WITH THE CITY OF BRAINERD.

Upon roll call, Council Members Bevans, Johnson, Stunek, and Erickson voted "aye". Members Czczok, Yeager, and O'Day voted "nay". The Chair declared the motion carried.

First Reading- Proposed Ordinance 1581- Consider Rezoning and Zoning Text Amendment for Paradigm Auto - 310 W Laurel Street

Community Development Director Kramvik gave an overview of the rezoning and zoning text amendment submitted by Paradigm Auto.

Member Bevans asked how to procedurally not to conduct the reading at all.

Attorney Langel stated that the Council can make a motion to forgo the reading.

MOVED AND SECONDED BY COUNCIL MEMBERS BEVANS AND JOHNSON, DULY CARRIED, TO FORGO THE READING OF PROPOSED ORDINANCE 1581.

Member Bevans stated that this property has been in violation of the zoning code for many years.

Community Development Director Kramvik stated that the business has been in violation of the zoning code two times previously, both requiring a change to the zoning code to resolve.

Member Johnson asked to clarify that the business has made no changes to comply, rather the zoning code was changed to accommodate the business. He asked whether the proposed zoning district would require the business to pave and screen. He questioned the use of the Makers and Employment District as the business is surrounded by the Town Center District. He stated that the applicant has not complied with the zoning district since it was adopted, and is again asking for a change. He compared this to the interim use permits for short-term rentals and how the City Council has denied those applicants who did not follow the correct procedures.

Community Development Director Kramvik stated that both times the business requested a rezoning after the business was found to be non-compliant. He stated that the Makers and Employment District would require that they pave but would not require screening.

Member Erickson stated that he believed when the new zoning code was adopted that the Town Center District is the incorrect zoning for this area evidenced by all of the continuing problems with this property. He believes that anything west of the Mississippi River is not Town Center.

Member Bevans stated that the business has been abusive for over a decade. The last time that the business was here, the City suggested moving the U-Haul business by offering them land in the Industrial Park. It is unfair to all other citizens for this business to continue to not follow the direction of the City Council.

Member Erickson stated that he agrees with not having exceptional rules for those disobeying. He will support the motion but does not support Town Center as the zoning district in this area.

Chair O'Day stated that if the zoning change and text amendment is denied, it will not take his business away, it is enforcing our zoning code. They still have an opportunity to work with the Council. He asked to clarify the motion.

Member Bevans stated that he is asking staff to enforce the zoning code citywide.

Attorney Langel stated that the Council will also need to deny the rezoning and text amendment.

MOVED AND SECONDED BY COUNCIL MEMBERS BEVANS AND JOHNSON, DULY CARRIED, TO ENFORCE THE ZONING CODE.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND YEAGER, DULY CARRIED, TO DENY THE ZONING CHANGE AND TEXT AMENDMENT REQUEST.

Consider Conditional Use Permit and Variance for Suite Properties LLC - 324 5th Street S

Community Development Director Kramvik gave an overview of the request.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND CZECZOK, DULY CARRIED, TO APPROVE CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR 324 5TH STREET S.

Consider Preliminary and Final Plat for Three Pete LLC - 15770 Dellwood Drive

Community Development Director Kramvik gave an overview of the request.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND CZECZOK, DULY CARRIED, TO APPROVE THE PRELIMINARY AND FINAL PLAT FOR 15770 DELLWOOD DRIVE.

Adopt Resolution - Approve Plans and Authorize Bidding - Improvement 17-12 - Wright/10th Reconstruction Project

Public Works Director Habighorst gave an overview of the project.

MOVED AND SECONDED BY COUNCIL MEMBERS CZECZOK AND BEVANS TO ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS, AND ORDERING ADVERTISEMENT FOR BIDS FOR IMPROVEMENT 17-12.

RESOLUTION 21:25

Upon roll call, Council Members Bevans, Johnson, Czczok, Stunek, Yeager, Erickson, and O'Day voted "aye". No member voted "nay". The Chair declared the motion carried.

Priorities for Federal House Appropriations - Fiscal Year 2026

Administrator Broyles gave an overview of the priorities. The Dam project is not eligible for house appropriations. However, the Public Utilities Commission is pursuing state funding. The Biosolids project will be considered for 2027, but conversations need to had with the City of Baxter.

Chair O'Day encouraged the City to submit projects yearly for this funding.

Member Johnson stated that the \$5 million for the water facility is very important since the City has already been appropriated State funding.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND CZECZOK, DULY CARRIED, TO DIRECT STAFF TO RESPOND TO CONGRESSMAN STAUBER'S REQUEST FOR PROJECTS BY THE MARCH 14 DEADLINE WITH THE FOLLOWING PROJECTS IN PRIORITIZED ORDER \$5M FOR OUR WATER TREATMENT PROJECT AND \$6M FOR PEDESTRIAN BRIDGE CROSSING AT LUM PARK/210 AND CUYUNA LAKES TRAIL.

Authorize Council Member Bevans to Attend Crow Wing County Commission Meeting to Discuss the Arb

Administrator Broyles stated that the Northland Arboretum requested that a Member of the City attend the upcoming County Commission meeting in support of the Arboretum.

Member Bevans stated that in order to be designated as a regional park designation the County needs to own a certain amount of land within the arboretum in order to be the designate. This will open the door for more funding.

Chair O'Day stated that the Arboretum Director has been doing as asked for pursuing alternative funding opportunities.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND BEVANS, DULY CARRIED, TO AUTHORIZE COUNCIL MEMBER BEVANS TO ATTEND THE CROW WING COUNTY COMMISSION MEETING ON MARCH 11 TO SUPPORT THE ARB SEEKING GMRPTC REGIONAL DESIGNATION.

Staff Reports

Community Development Director Kramvik stated that the EDA has started their childcare facility tours.

Public Utilities Director Evans stated that the Public Utilities Department is in process of having two projects added to the MPCA priority list for Clean Water Funds. The department would like to add the main lift station rebuild and the 20-year capital improvement plan and wastewater plant upgrade to the priority list. On March 13th, at 5:30 p.m. there will be a Joint Wastewater Management Board meeting at BPU.

Administrator Broyles thanked Mr. Wussow for his service to the City and mentorship.

Mayor's Report

Mayor Badeaux stated that he went to the Arboretum on Sunday with his family. He encouraged everyone to visit. He gave details about the St. Patrick's Day week celebration. The St. Patrick's Day parade is at 1:00 on March 15th downtown.

Council Member Reports

Member Czczok gave an update on the Public Utility Commission. He stated that Public Utilities Director Evans had a report in the packet.

Member Bevans stated that the Arboretum has a lot of interesting and exciting things going on. He attended the downtown business social at Sage on Laurel. If you're not at the St. Patrick's Day Parade, you're missing out.

Member Johnson stated that the arbitrator has ruled on the IBEW contract. On the length of contract, wages, and non-discrimination the arbitrator sided with the City's position. The IBEW Union did get Juneteenth as a holiday. He thanked all who worked the last couple of years on this ruling, he couldn't be happier with the outcome.

Member O'Day thanked those who attended the meeting.

Adjourn

Adjourn to Closed Session Pursuant to MN Statute 13D.05 Subd. 3(A) to Conduct City Administrator Broyles 2024 Performance Review

MOVED AND SECONDED BY COUNCIL MEMBERS BEVANS AND STUNEK, DULY CARRIED, TO ADJOURN TO CLOSED SESSION PURSUANT TO MN STATUTE 13D.05

SUBD. 3(A) TO CONDUCT CITY ADMINISTRATOR BROYLES 2024 PERFORMANCE REVIEW.

The Chair adjourned the meeting to closed session at 8:48 p.m

The Council took a five-minute break.

The Chair reconvened the meeting at 10:31 p.m.

MOVED AND SECONDED BY MEMBERS BEVANS AND STUNEK, DULY CARRIED,
TO ADJOURN THE MEETING TO THE COUNCIL RETREAT.

The Chair adjourned the meeting at 10:31 p.m.

Nicholas W. Broyles
City Administrator

Pursuant to due call and notice thereof, the City Council Retreat of the Brainerd City Council was called to order at 8:00 a.m.

Members Bevans, Johnson, Czeczok, Yeager, Erickson (11:00 a.m.), and O'Day were noted as present. Mayor Badeaux was also noted as present.

Administrator Broyles gave an introduction and reviewed the schedule for the day.

A break was given hourly, with lunch from 11:15 a.m. to 12:15 p.m.

The topics of discussion were the community survey conducted by staff, department overviews, facilities, City mission planning, and strategic planning.

Member Johnson stated that the Annex should have its elevator repaired as it will cost more to take it out than the minimal amount to repair it.

Generally, all Council Members agreed.

Council Members outlined their priorities for the next two years. The priorities included: blight in the main corridors, the Annex, Fire Station 1 renovation, Fire Station 3 conversations with entities, learning more about Public Works integration, underground infrastructure, fleet management, fiscal responsibility, pursuing the State Hospital land, and selling City owned properties to developers.

Member Czeczok asked about the next steps after the retreat meeting.

Administrator Broyles stated that the next step would be to determine whether to integrate finance. He will be calling a meeting of the integration work group.

Adjourn

The Chair adjourned the meeting at 1:30 p.m. to the Wastewater Treatment Board meeting at BPU on March 13th at 5:30 p.m.

Nicholas W. Broyles
City Administrator



BRAINERD POLICE DEPARTMENT MONTHLY REPORT



BOOYAH AWARD



February's Booyah Winner is Officer Jordan Host!

Officers were called to a residence for a male party who was suffering from delusional and contaminated thoughts due to mental illness. Officer Host contacted the subject who was in possession of a knife, displaying erratic behavior, and unwilling to cooperate with officers. Using active listening and de-escalation tactics Officer Host gained rapport with the subject which allowed Host to influence him into voluntarily complying and putting down the knife. The subject was then brought to a mental health professional to receive the care he needed.

BODY WORN CAMERA DATA REPORT

Month	Number of Videos	Hours of Video	GB of Videos	Average MB per Video	Average Time Length of Videos	Average Number of Videos Per Day
February	1,629	364	636	400	13.41 Minutes	58



CONDUCT ON PREMISES ACTIVITY REPORT

ICR	Date Reported	Title	Address
25002287	2-18-25	Conduct on Premises	500 NW 4 th Street Apt 311
25002705	2-26-25	Conduct on Premises	1001 Kingwood Street Apt 207

TRAINING & STAFF DEVELOPMENT

FBI - Supervisor Leadership Institute

The Police Department hosted and LT. Kulzer, Sergeant Rosier, Sergeant Reed, and Officer Gleason attended the Supervisor Leadership Institute (SLI) Training.

This is part one of the three-step leadership series that makes up the FBI-LEEDA Trilogy. SLI students were engaged in such topics as credibility, discipline, liability, and leadership styles.

Other topics covered in the Supervisor Leadership Institute were:

- Defining leadership, generational effects of leadership, leadership as a lifestyle, leadership traits
- Building credibility, organizational credibility
- Four pillars of discipline, immunity, supervisor liability
- Participants also completed a DISC assessment of their personal leadership style

**Blue Ox Academy – Leaders Edge**

Admin Supervisor Miranda Halverson and Records Lead Allyson Beck attended the Leader's Edge training hosted by the Blue Ox Academy. Students learned to measure success by experiencing increased levels of morale, initiative, and confidence. Students also learned how to improve communication, delegation that empowers people, and a keen focus on helping to support the goals and the vision of your organization. Students experience how accountability and expectations eliminate negativity and complacency disappear and gain insight into how issues are replaced with solutions.

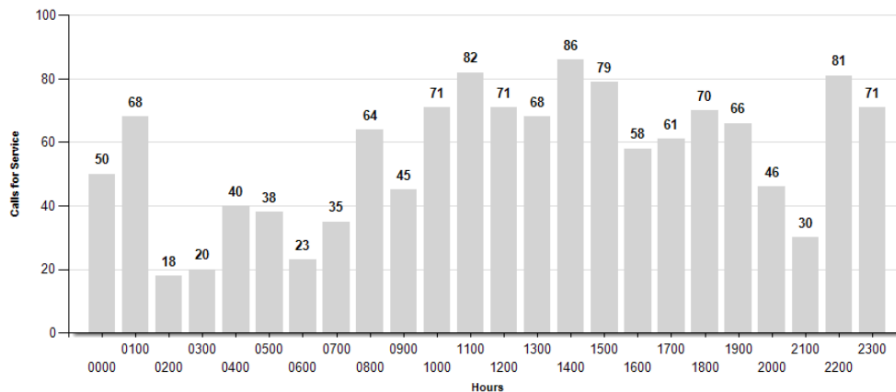
OVERALL CALLS FOR SERVICE

February	2025	2024
Number of Calls for Service	1,341	1,305

**Calls for Service Hourly**

2/1/2025 to 2/28/2025

Total Calls: 1388



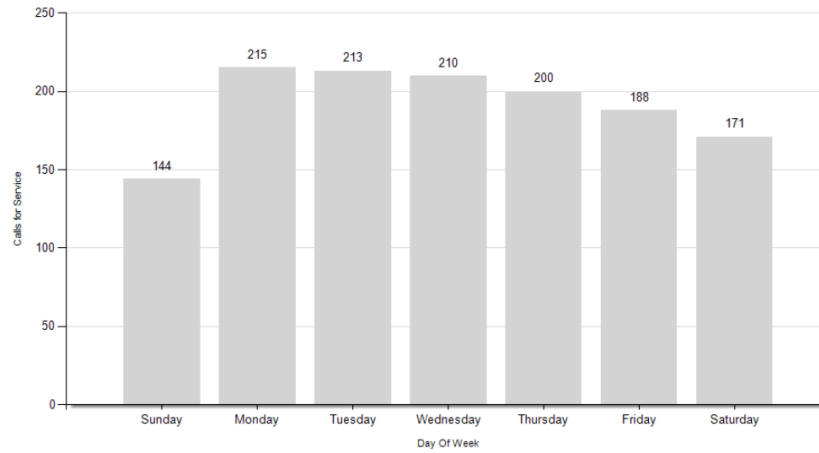


Calls for Service Day Of Week

Start Date: 2/1/2025

End Date: 2/28/2025

Total Calls: 1388



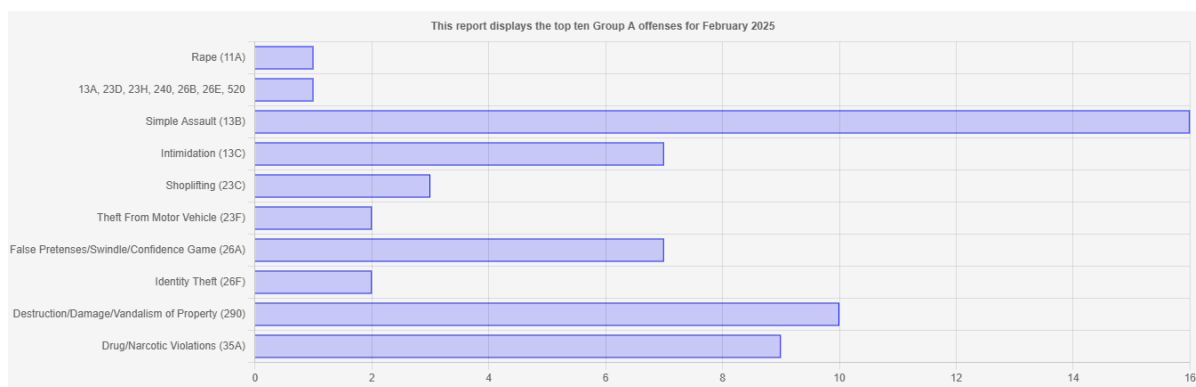
CRIME STATISTICS

Year to Date through Month	2025	2024
Group A Offenses Known or Reported to Police	122	136
Group A and B Arrests	119	118

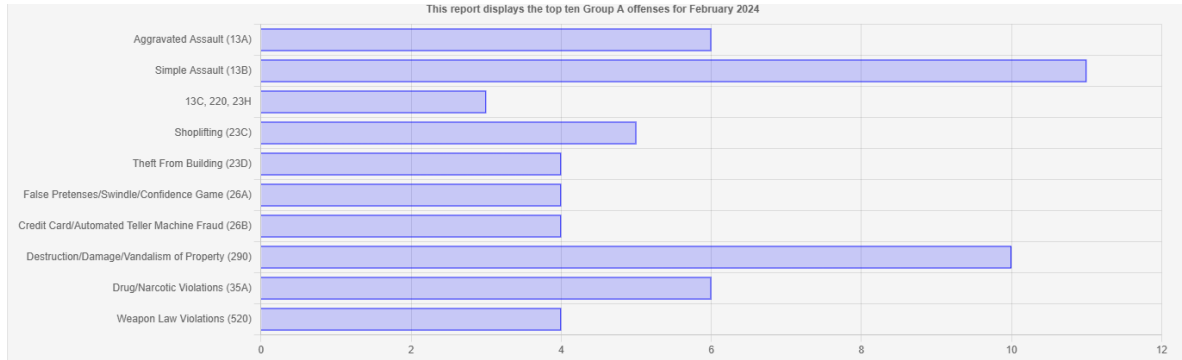
**** Note: 2025 totals do not include case files that have not yet been coded.**

TOP 10 GROUP A OFFENSES

February 2025

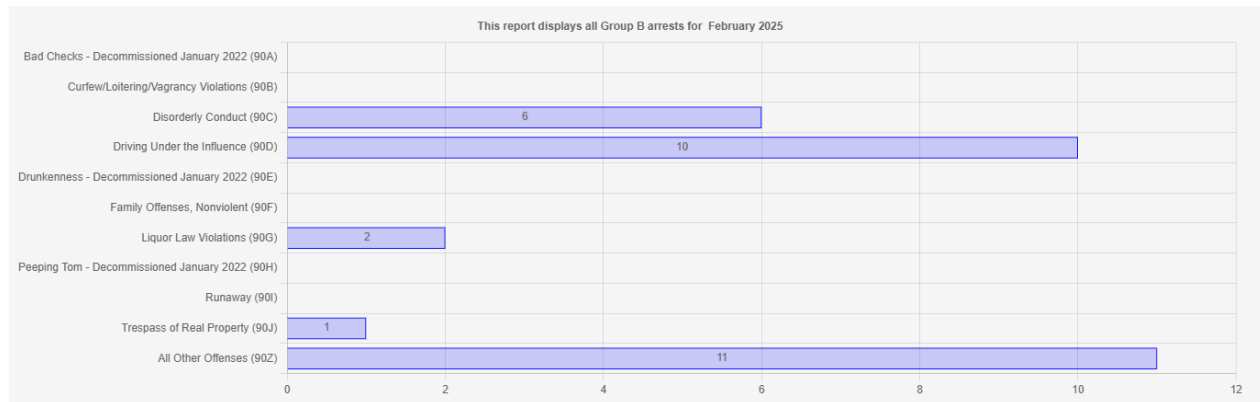


February 2024

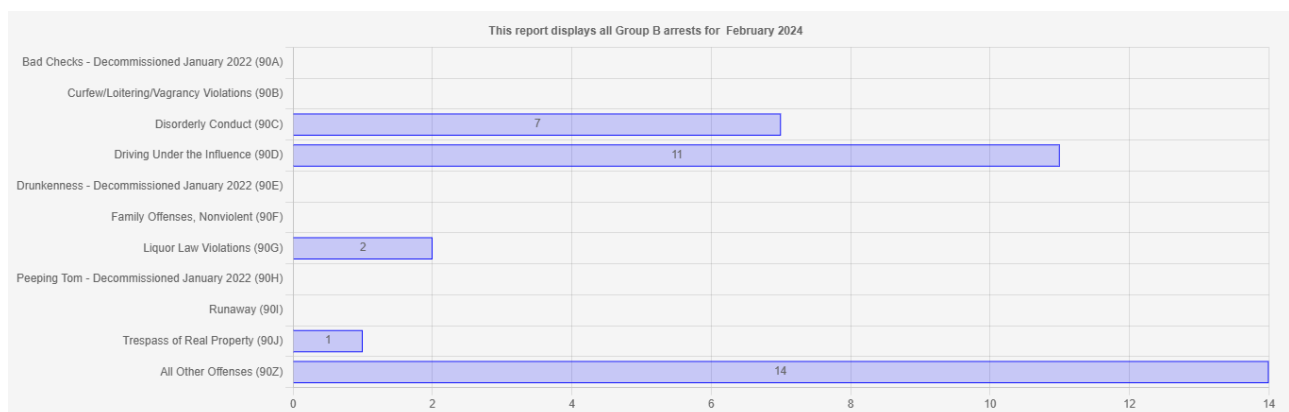


GROUP B ARREST DATA

February 2025



February 2024



CITATIONS, PARKING TICKETS, & WRITTEN WARNINGS

February	2025	2024
Citations (Inc. Parking Tickets & Written Warnings)	194	160

90 parking tickets were issued in the month of February, with the following dispositions.

5	Dismissed
56	Paid in Full
3	Partial Payments Received
26	No Payment Received

Revenue Recapture Receipts:

2024 Total:	\$8,295.10
2025 To Date:	\$1,452.63

COMMUNITY OUTREACH

Police Department Tour

Oak Leaf Home School joined Officer Judd and Safety Pup for a tour of our Police Department. Children from preschool to first grade had the opportunity to explore the role of a police officer and take a look at the officer's equipment and squad car.





BRAINERD PUBLIC UTILITIES

8027 Highland Scenic Rd • P.O. Box 373 • Brainerd, Minnesota 56401

Business Office: 218.829.8726 ■ **Repair Service:** 218.829.2193

www.bpu.org

Utility Director Report March 2025

Electric:

AEP was able to secure pricing to extend the contract into 2033/2034 below the authorized level set by Commission last meeting. The new firm contracted MWh energy rate starting in June 2025 will go from \$44.60 to \$49.35 until the next extension or renegotiation in the event commodity prices drop significantly. As energy makes up only approximately 70% of the total cost of power received, I recommend utilizing monthly power cost and formula rate adjustment mechanisms within any planned rates in June to deal with the transmission and capacity components as they will have more volatility in the future.

We are monitoring newly imposed requirements by MISO which could disqualify all of Voltus' 450 MW of demand response resources from the upcoming capacity auctions as MISO tariff requires that market participants give the grid operator results of "real power tests" to register resources as load modifying resources for capacity auctions.

The above statements and activities were prior to recent events dealing with Canadian tariffs. There have been questions and concerns expressed by a few customers. As such, here are the facts and present informational release:

BPU purchases power through long-term agreements with AEP within the MISO transmission region as well as having access to local utility-scale solar and hydro resources. In 2024, less than 1% of MISO's total energy was supplied via Canadian imports, with less than half of that coming from the Ontario province. MISO routinely manages power flow and fluctuations of this scale and maintains reliability across its footprint, so they do not anticipate any disruptions or significant impacts on our community.

This situation is being reviewed and we will continue to monitor developments. BPU is also a member of the Minnesota Municipal Utilities Association and American Public Power Association, both of which have government affairs teams also monitoring and advocating for sound energy policy at the local, state, and national levels.

We will provide pertinent and timely updates as appropriate. **At this time, rates and reliability remain unaffected due to the situation.**

Financial Reports

December is on-going as we prepare for the audit and year-end entries and cost studies. January and February to follow the audited December financial statements.

Audit Preparation

The 2024 audit is underway. We continue our work with CliftonLarsonAllen on the audit. Preliminary documents and items have been prepared and provided to CLA. The audit fieldwork is scheduled for the week of March 10. CLA will be on-site during that week. They will be reaching out to the Finance committee members for an interview of processes at some point during that week. There are significant liabilities that are in process of being calculated related to the contract negotiation backpay and the new requirements related to compensated absences under GASB 101 that staff continue to work through.

Communities Local Energy Action Program:

Scope work related to the NREL project is underway and staff have provided NREL all requested information for the first phase of 4.

MN Rural Water/Wellhead Protection Plan

Staff met with Rural water to discuss the wellhead protection plan. A joint meeting was held with multiple departments coordinating the priorities for response to the wellhead protection plan and the approved plan from MN Department of Health. Staff continue to work through the coordination with the team and project will be on-going.

MN Department of Health

Staff met with the MN Department of Health for funding considerations in 2026 as it relates to lead/copper service line replacements. There are several funding webinars and conferences that are occurring related to this project. Staff are working to provide up-to-date information to customers and drafting website updates to facilitate the public education on upcoming projects. March 5th MN Rural water and MDH are presenting in St. Cloud for updates on legislative changes and the process MDH would like utility systems to follow. Staff will be attending this event.

Streetlighting/Water/Wastewater Cost Studies

The cost studies for streetlighting/water/wastewater have begun and are collecting data for Utility Financial Solutions. Meetings with UFS have continued to determine their data needs and requests for the cost studies. UFS is awaiting staff responses before continuing. Staff are compiling information and expect to have all the information to UFS.

After Hours Call Center:

The utility department is in the trial period with Gold Cross Answering services for 24-hour call and dispatching service. All have been going as planned

Electric Department:

Maintenance and updates at the Oakridge substation are currently in progress. BPU crews are working with National Conductor to carry out this work. Minnesota Power is also involved with this project for transmission switching. We expect to complete the bus updates in the next few weeks. Once completed the focus will be on testing and upgrading the bus protection relays.

Staff is working on vegetation management by removing hazardous trees and undertaking preventative pruning. Removals and brush mowing is currently being concentrated in traditionally wet areas of our service territory that are difficult to access with equipment.

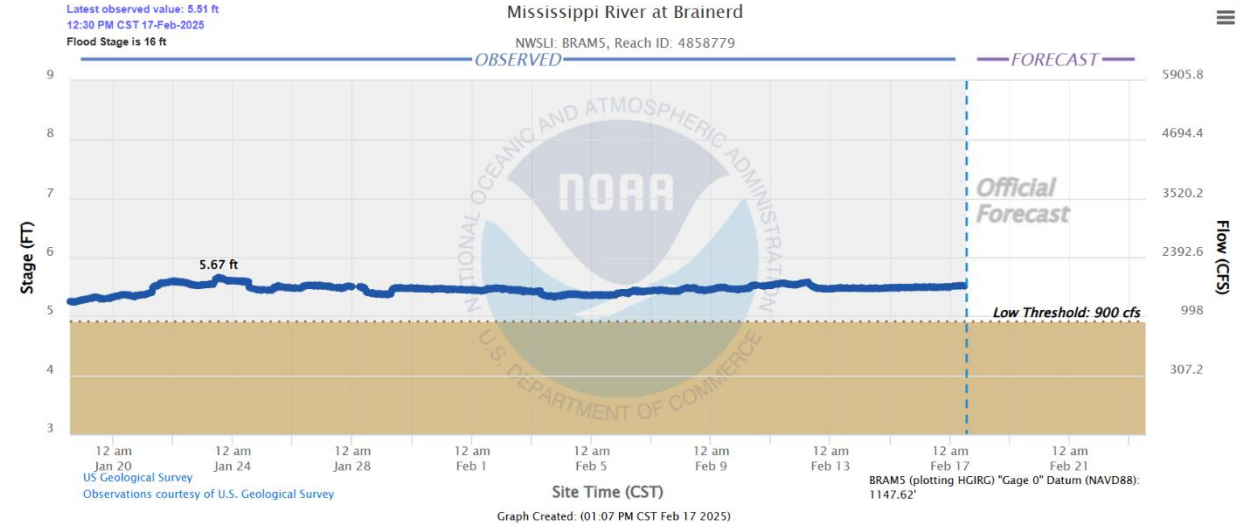
The maintenance and reconstruction project on NW 7th St. is nearly complete. A small portion of the underground work will be finished in the spring to conclude this project.

Hydro Department:

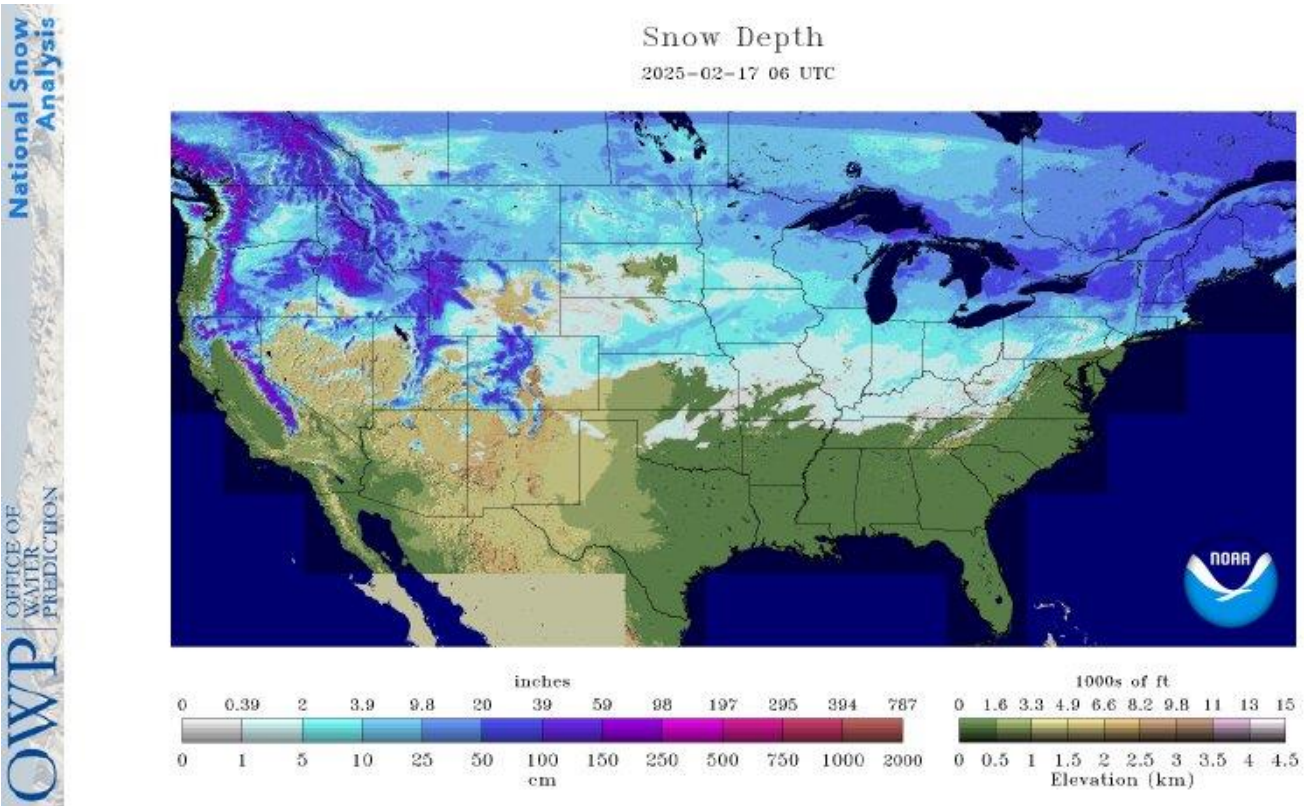
Staff and Barr engineering is currently addressing the FERC Part 12 requirements for 2025. The following tasks are outlined with their respective deadlines:

1. Routine maintenance of the Tainter gate - Due by October 31, 2025.
2. Development of a plan for shoreline stabilization - Due by October 31, 2025.
3. Implementation of ODSP audit recommendations - Due by December 31, 2025.
4. Implementation of EAP recommendations - Due by December 31, 2025.
5. Conducting a movement monitoring survey - Due by December 31, 2025.
6. Filling the gap near the powerhouse - Due by December 31, 2025.

Flows have ranged from 1350-1850 cfs. Generators #1 and #2 have been in service, operating at 100% of their capacity and generating approximately 1.10-1.6 MW continuously since December 9th 2024.



Staff is monitoring the snowpack in the upper Mississippi watershed. This analysis provides insights into what the spring runoff may look like as we prepare for and review high water flow plans in anticipation of the seasonal changes.



Water Distribution:

The staff is currently developing a grid design layout for the water distribution system. Unlike a conventional square grid, this design will be adjusted for funding and project management. The goal is to synchronize galvanized service line replacement construction plans and timelines with the City's 10-Year Streets and Sewer Capital Improvement Plan.

There are two variations in this process. The first focuses on identifying approximately 500 lines that still need to be identified. These identifications will be done by excavation, either Hydro vacuum or conventional excavating methods.

The second variation centers on the City's (CIP) projects. Our goal is to maintain flexibility so we can effectively align with the City's plan while also meeting the MDH service line replacement deadlines. Staff has set an internal goal to have this completed for first review by March 31st, 2025. This information will start the foundation for lead service replacement projects.

Water/ Wastewater:

Minnesota Department of Health (MDH) will not be holding a spring round of Source Water Protection (SWP) Grants (Competitive, Plan Implementation, and Transient) in 2025. However, we anticipate that the funds that would have been awarded in the spring will be available in the fall in addition to the fall funding amount.

Minnesota Pollution Control Agency (MPCA) is accepting submissions for state funding for public wastewater, stormwater, and drinking water infrastructure improvement projects, including projects to replace lead-service lines and address emerging contaminants. Applications will be accepted through March 7, 2025, for the clean water project priority list (PPL) and May 2, 2025, for the drinking water PPL

MESERB submitted comments to the Minnesota Pollution Control Agency (MPCA) as part of the 2025-2027 Triennial Standards Review addressing concerns about sulfate standards in Mississippi river pools as well as general PFAS and nitrate standards.

The fight to hold PFAS polluters accountable continues in the 119th Congress as Reps. Marie Gluesenkamp Perez (D-Wash.) and Celeste Maloy (R-Utah) have reintroduced the Water Systems PFAS Liability Protection Act, a bipartisan measure aimed at shielding water utilities from unjust PFAS liability under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This legislation has been strongly championed by NACWA and its partners in the Water Coalition Against PFAS. Despite the goals for protection, public water systems will still have to make significant investment to monitor and mitigate. The EPA evaluated over 120,000 comments submitted by the public on the rule proposal, as well as considered input received during multiple consultations and stakeholder engagement activities held both prior to and following the proposed rule.

Compound	Final MCLG	Final MCL (enforceable levels) ¹
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as ng/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

The final rule requires:

- Public water systems must monitor for these PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.

- Public water systems have five years (by 2029) to implement solutions that reduce these PFAS if monitoring shows that drinking water levels exceed these MCLs.
- Beginning in five years (2029), public water systems that have PFAS in drinking water which violates one or more of these MCLs must take action to reduce levels of these PFAS in their drinking water and must provide notification to the public of the violation.
- *NOTE: MDH has been testing these analytes under UCMR5 (Fifth Unregulated Contaminant Monitoring Rule) program since 2021.*

A snapshot of sampling data as well as definitions and changes to EPA MCL standards are shown on the next page.

Date	PFOS ppt	PFOA ppt	PFBS ppt	PFBA ppt	PFHxS ppt	PFHxA ppt	HFPO-DA (GenX) ppt	PFNA ppt	MDH HRI	HRI QRAA	EPA HI	HI QRAA	PFOS QRAA	PFOA QRAA	PFHxS QRAA
10/17/2024	3.5	0	4.5	5.3	3.3	0	0	0	0.3	0.3	0.3	0.2	0.0	0.0	1.7
08/29/2024	3.1	1.7	4.8	8.6	2.5	2.1	0	0	0.4	0.2	0.0	0.1	0.0	0.0	0.8
05/30/2024	1.8	0	0	0	0	0	0	0	0.1	0.2	0.0	0.1	0.0	0.0	0.8
02/07/2024	3.1	0.0	2.8	3.5	3.3	0.0	0.0	0.0	0.3	0.2	0.3	0.1	0.0	0.0	0.8
08/29/2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0
06/13/2023	2.3		2.6	2.6	2.3				0.2	0.2	0.0	0.0	0.0	WDIV/DI	0.0
02/07/2023	2.9		2.0	2.0	1.8				0.3	0.3	0.0	0.0	0.0	WDIV/DI	0.0

MN Health Based Values

HRI = Health Risk Index

MDH Health-Based Guidance Values (HBVs) in ppt (ng/L)

QRAA = Quarterly Running Annual Average

0.50 < HRI < 1.0

HRI > 1.0

	2022 MDH HBVs	HRI Calculation:
PFOS	15	cPFOS/15
PFOA	35	cPFOA/35
PFBS	100	cPFBS/100
PFBA	7000	cPFBA/7000
PFHxS	47	cPFHxS/47
PFHxA	200	cPFHxA/200

HRI = Sum of Above

c = concentration in ppt

EPA MCLs

MCL = Maximum Contaminant Level

50%-100% MCL

>100% MCL

QRAA = Quarterly Running Annual Average

PQL = Practical Quantification Level

If result is < PQL, it is set to 0 in QRAA & HI calcs for MCLs

EPA MCLs in ppt (ng/L)

	2024 EPA MCL	PQL
PFOS	4.0	4.0
PFOA	4.0	4.0
PFHxS	10	3.0
HFPO-DA (GenX)	10	5.0
PFNA	10	4.0
PFBS	Use HI	3.0

HI = Hazard Index (MCL = 1)

0.50 < HI < 1.4

HI > 1.4

EPA Health-Based Water Concentrations (HBWC) in ppt

	2024 EPA HBWC	HI Calculation
PFBS	2000	cPFBS/2000
PFHxS	10	cPFHxS/10
HFPO-DA (GenX)	10	cGenX/10
PFNA	10	cPFNA/10

HI = Sum of Above

c = concentration in ppt

PFAS Compounds

PFOS = Perfluorooctane Sulfonic Acid

PFOA = Perfluorooctanoic Acid

PFBS = Perfluorobutane Sulfonic Acid

PFBA = Perfluorobutanoic acid

PFHxS = Perfluorohexane Sulfonic Acid

PFHxA = Perfluorohexanoic acid

HFPO-DA = GenX = Hexafluoropropylene Oxide Dimer Acid

PFNA = Perfluorononanoic acid

Conversions

Part per Billion (ppb) = (µg/L)

Part per Trillion (ppt) = (ng/L)

1 ppm = 1,000 ppb = 1,000,000 ppt

1 ppt = 0.001 ppb = 0.000001 ppm

January 2025 Water Pumping Statistics

Water pumped to the North distribution system was 27.7 MG for an average of 0.895 MGD. Water pumped to the South distribution system was 4.494 MG for an average of 0.144 MGD. Chemical usage averages for the month: 2.21 gallons of fluoride per day, 3.35 gallons of caustic soda per day, 6.43 gallons of orthophosphate per day, and 22.12 pounds of chlorine per day. Went through 18 filter backwash events while using an average of 0.205 MG for each event.

Wells

Thein Well performed service of Well 6 on February 10, 2025. Rehabilitation work on-site included acid treatment, brushing, surging and high pressure water jetting. Off-site work will include motor, pump, and piping inspection and repair. Expected completion in late March or early April.

Filtration Plant

January 2025 daily test results for finished water are 96.6% removal of iron and 98.2% removal of manganese.

Booster Pump Stations

Riverside booster station and Lum Park booster station continue to operate effectively.

Minnesota Department of Health

Staff met with the MN Department of Health to discuss the updated changes related to the lead and copper inventory.

Wellhead Protection Plan (WHPP)

Called a meeting with the WHPP team to discuss plan for responding to priorities for 2025 and the access of funding with Minnesota Rural Water to aid the City in meeting wellhead protection plan goals.

Lift Stations

Ongoing maintenance of wet wells, pumps, generators, and controls for the 17 lift stations. Ongoing cleaning and painting of main lift pumps and piping as time allows. Ongoing SCADA improvements at main lift.

Wastewater Treatment Plant

On-call operator tested Wastewater Treatment Facility and lift stations SCADA alarms. Equipment maintenance is ongoing. Replacing SBR 1 Jetmotive pump wear ring and the 90-degree elbow.

Biosolids

Working on the Minnesota Biosolids PFAS Strategy consisting of PFAS sampling, required actions include reduction efforts and communication. For CY 2025 we are in Tier 2 (43.5 ug/Kg). Ongoing development of the Minnesota Biosolids PFAS Strategy program for the approved Biosolids application sites.

Lab

Sent January 2025 Electronic Daily Monitoring Report, Significant Industrial User (SIU) 2024 annual report to MPCA and CY 2024 Biosolids report to EPA. Updating of Standard Operation Program and Standard Operation Guide for MPCA. Sampled influent and effluent for copper. Ongoing Mercury Minimization, Copper Minimization Plan, PFAS Minimization Plan. Ongoing delegation with Brainerd Significant and Categorical Industrial Users.

Drinking Water

Received 2024 4th Quarter PFAS sample results. Continuing to update the Lead and Copper program. Sampled 4 sites for Haloacetic acid (HAA), Trihalomethane (THMs), and sent to MDH lab. Ongoing testing for the Optimal Corrosion Control Treatment (OCCT) requirements. Collected the 15 required Coliform samples. Responded to 7 residential drinking water concerns from January 21, 2025 – February 18, 2025.

River crossing

Working on final payment and landscaping approval.

Generators

Test ran Evergreen Lift, Main Lift, SW6th Lift, portable 25KW, 150KW, 45KW and both plant generators. Added fuel where needed.

Personnel

Operators signed up for water, wastewater and biosolids schools for 2025.



COMMUNITY DEVELOPMENT DEPARTMENT REPORT

James Kramvik, CDD

February 2025



BUILDING PERMITS

The Community Development Department issued 35 building permits with a total project valuation of \$354,650 in the month of February. Within the Central Business District (prev. River to Rail), 4 permits were issued. These improvements resulted in \$832 being waived in permit fees.

*Note: project valuation does not include all projects as some permits, such as residential mechanical permits, have a flat fee and are not based on valuation. Therefore, the listed total project valuation is solely based on the permits whose fees are determined by valuation.

Issued Permits for February 2025		
Type Of Permit	# Issued	Total Project Valuation
Commercial – Mechanical – Furnace/Boiler	1	N/A
Commercial – Mechanical – Remodel	1	\$3,500
Commercial – Plumbing – Remodel	1	\$14,000
Commercial – Plumbing – Water Heater	1	N/A
Engineering – Excavation	1	N/A
Residential – Building – New/Addition	1	\$250,000
Residential – Building – Remodel	3	\$70,000
Residential – Building – Roofing+Garage	1	N/A
Residential – Building – Windows/Doors	6	N/A
Residential – Mechanical – Furnace/Boiler	3	N/A
Residential – Mechanical – Furnace+AC	1	N/A
Residential – Mechanical – New/Addition	2	N/A
Residential – Mechanical – Remodel	1	N/A
Residential – Plumbing – Remodel	4	N/A
Residential – Plumbing – Water Heater	5	N/A
Residential – Plumbing – Water Softener	1	N/A
Sign	2	\$17,150

There were no single-family home building permits issued in the month of February.

BUILDING INSPECTIONS

The Community Development Department conducted 51 building inspections and re-inspections in February.

CODE ENFORCEMENT

The Community Development Department conducted 37 code enforcement inspections and re-inspections in February resulting in violations across the following categories:

CODE ENFORCEMENT INSPECTIONS	
Junk and Debris	5
Outdoor Storage	2
Zoning Code Violation	3
Unlicensed/Inoperable Vehicle	7
Exterior Structure	1
Accessory Structure Material	2
Nuisance on Public Street (snow)	17
Total = 37	

**Note: With the adoption of Ordinance No. 1524 on April 4th, 2022, Community Development staff have moved to complaint driven enforcement only.*

Direction on Active Code Enforcement Cases

Staff continue to send citations to the following properties as directed by City Council.

- 1) **823 Willow St** – Unlicensed Rental - Issuing \$300 citation monthly for non-licensed rental. Legal action from the City Attorney is taking place. City Council motion 2/3/2025 to \$100 per day citation.
- 2) **319 N 9th St** – Property Maintenance/ Roof – Issuing a \$300 citation each month until roof is corrected.
- 3) **303 J St NE** – Property owners paid \$3,000 in nuisance assessment fees within 30 days. The remaining portion of assessment fees were forgiven as directed by City Council.

VACANT BUILDING REGISTRY

Properties proposed to be assessed in 2024

408 2nd Ave NE – Vacant Building – No Response
224 5th St N – Fire Damage

Properties that have registered/ applied for permits

1521 Norwood St – Fire Damage – Recently Purchased
1216 6th St S – Owner Repaired Roof
1623 9th Ave NE – Remodel Permit Issued – Work in Progress
1812 Oak St – Roof Damage. Roof permit was obtained and completed.

508 9th St N – Roof Damage and Grass. Property has been purchased and new owners have started to remodel.

Vacant Building Registry Letters Sent after 9/1/2024

715 7th Ave NE – Grass and Structural Issues
1201 L St NE – Returned in Mail – Posted to Door
912 6th Ave NE – Returned in Mail – Posted to Door
1022 13th Ave NE – Siding Uncompleted 3+ years
1420 Quince – Construction debris, Grass, Uncompleted work 15+ years
1119 13th St SE – Roof Damage
1889 Graydon Ave – Open Excavation – No Progress
319 9th St N – Fire Damage
1626 Norwood Street – Non-sided Structure

RENTAL LICENSES & INSPECTIONS

The Community Development Department issued 1 new rental license in the month of February.

The Housing Inspector completed 33 rental property inspections and re-inspections in February.

CONTRACTOR REGISTRATION

The Community Development Department issued 8 contractor registrations in February.

PLANNING AND ZONING

March 19th Planning Commission Agenda:

- 1) Consider Interim Use Permit for the Operation of a Year-Round Warming Shelter - 1926 S 7th St
- 2) Consider Conditional Use Permit for a Boarding House on NW 3rd Street - My Neighbor to Love
- 3) Consider Conditional Use Permit for Vehicle, Trailer, and Equipment Sales - 1801 Mill Ave
- 4) Review Data Center Ordinance

Staff continue to refine the Data Center Ordinance and will be recommending that the Planning Commission hold a public hearing for the proposed ordinance at their April 16th meeting. Public Utilities Director Evans attended the last Planning Commission meeting and introduced several items for the Commission to consider for a final ordinance.





ECONOMIC DEVELOPMENT

Childcare Tours

Staff have begun setting up childcare tours to better understand the difficulties in operation and the factors that currently limit the expansion of childcare slots. The tour group included the City Administrator, Community Development Director, two EDA Board Members, and a member from BLAEDC. The group toured TCC Head Start at 2410 Oak Street and the YMCA at 703 Oak Street. Staff will provide a childcare report to the EDA at the April EDA workshop. The workshop discussion will primarily focus on 2025 funds budgeted for grant programs and how they should be allocated in 2025. In addition, the EDA may provide a recommendation on new incentive policies.

EDA April Workshop

The purpose of the workshop meeting is to discuss priorities of the EDA in 2025 and discuss funds for possible EDA grants. The discussion items are listed below:

- 1) Washington Street Reconstruction
 - a. What role should the EDA have during the reconstruction project?
- 2) Improved signage in Downtown and along Washington Street
 - a. Should zoning ordinances be strengthened to improve sign esthetics?
 - b. Discuss possible matching grants for new or improved signage.
- 3) Commercial Childcare Centers
 - a. Review and discuss results of childcare tours.
 - b. Discuss possible ordinance changes for commercial childcare centers.
 - c. Discuss fees, policies, and potential grants.
- 4) Façade Improvement Grant
 - a. Review results from 2024 EDA façade improvement grants.
 - b. Discuss façade improvement grants for 2025.

PLANNING AND ZONING PROCESSES – CURRENT PROGRESS UPDATE

Address: PID 41040888 610 3rd St NW

PZE Process: Conditional Use Permit Amendment

Amendment Approved: 4/1/24

Project Description: The construction of a health club and boarding house.

Project Progress: The applicant has not begun construction of the facility but has begun site grading. The applicant was approved for a Conditional Use Permit amendment at the April 1st, 2024 City Council meeting. The site has been graded and stabilized.

Address: PID 41040889 580 3rd St NW

STARTED

PZE Process: Conditional Use Permit

Date Issued: 3/4/2024

Project Description: The construction of a residential 12-unit multifamily apartment building consisting of two 2-bedroom units and ten studio apartment units.

Project Progress: The Conditional Use Permit was approved by the City Council at the April 1st, 2024 meeting. The site has been graded and stabilized.

Address: 805 Laurel St

PZE Process: Conditional Use Permit and Variance

Date Issued: 4/22/2024

Project Description: To construct a mixed-use multifamily building supporting commercial space along with 78 units of housing.

Project Progress: The developer is awaiting news of the MN Workforce Housing Grant recipients which will most likely be determined in mid-September.

Address: 1101 Pine St

COMPLETED

PZE Process: Variance

Date Issued: 5/6/2024

Project Description: To construct a 12' wide concrete street loaded driveway off of Pine Street rather than off the alley to an existing accessory structure.

Project Progress: Project completed.

Address: 1111 Oak St

STARTED

PZE Process: Conditional Use Permit and Variance

Date Issued: 5/6/2024

Project Description: To construct a 5+ unit apartment and exceed 20+ DU/AC in the TN-2 District. Variance from the landscape requirements.

Project Progress: The remodel permit has been issued and the property owner is currently working on the property.

Address: 1918 Thiesse Dr

DENIED

PZE Process: Interim Use Permit for Outdoor Storage

Date Issued: Denied

Project Description: Outdoor storage as a principal use on an industrial lot.

Project Progress: None

Address: 1123 15th Ave NE

COMPLETED

PZE Process: Interim Use Permit

Date Issued: 8/5/2024

Project Description: The utilization of the property as a short-term rental.

Project Progress: The applicant has obtained a rental license; a local agent has been assigned and the necessary inspections have been completed.

Address: 418 8th Ave NE

COMPLETED

PZE Process: Conditional Use Permit Amendment

Date Issued: 8/5/2024

Project Description: The expansion of a fenced in area of the property to be used as a commercial childcare facility with two Early Head Start Classrooms and a total enrollment of 16 children. Additionally, to allow the expansion of one more classroom later in the year.

Project Progress: The Conditional Use Permit was approved by the City Council at the April 1st, 2024 meeting. A fence permit was applied for and issued, but it was discovered that the fence was too small of an area and needed expansion. A new fence permit was issued to Elite Fencing and the project was completed.

Address: 703 Oak St

COMPLETED

PZE Process: Conditional Use Permit Amendment

Date Issued: 9/3/2024

Project Description: To construct an outdoor playground at the current childcare facility

Project Progress: The property owner will be submitting the necessary permit applications.

Address: 1306 Chicago Ave

COMPLETED

PZE Process: Variance

Date Issued: 10/8/2024

Project Description: To split two parcels into equal lots to construct a duplex and variances from rear and front yard setback requirements.

Project Progress: The property owner has submitted the necessary permit applications and is working with the county on recordings.

Address: 2602 S 11th St

STARTED

PZE Process: Conditional Use Permit

Date Issued: 10/21/2024

Project Description: To add a propane storage tank to the property site.

Project Progress: Temporary tank was installed. The property owner will be submitting the necessary permit applications for the final tank in the Spring.

Address: 502 Juniper St

COMPLETED

PZE Process: Interim Use Permit Renewal

Date Issued: 12/2/2024

Project Description: The utilization of the property as a short-term rental.

Project Progress: The applicant has obtained a rental license; a local agent has been assigned and the necessary inspections have been completed. This is a renewal.

Address: 524 N 8th St

COMPLETED

PZE Process: Interim Use Permit Renewal

Date Issued: 12/2/2024

Project Description: The utilization of the property as a short-term rental.

Project Progress: The applicant has obtained a rental license; a local agent has been assigned and the necessary inspections have been completed. This is a renewal.

Address: 203 Hawkins Dr

COMPLETED

PZE Process: Interim Use Permit Renewal

Date Issued: 12/2/2024

Project Description: The utilization of the property as a short-term rental.

Project Progress: The applicant has obtained a rental license; a local agent has been assigned and the necessary inspections have been completed. This is a renewal.

Address: 214 S 8th St

STARTED

PZE Process: Conditional Use Permit

Date Issued: 12/2/2024

Project Description: To operate a brew pub at the Last Turn Saloon.

Project Progress: In progress

Address: 722 Laurel St

PZE Process: Conditional Use Permit

Date Issued: 12/2/2024

Project Description: To convert the existing main floor commercial space into two (2) commercial units and the second floor into seven (7) residential apartment units

Project Progress: Property owner will submit the necessary applications.

Address: 722 Laurel St

PZE Process: Variance

Date Issued: 12/2/2024

Project Description: From the parking requirements for the seven (7) units of additional housing and one (1) additional commercial space.

Project Progress: In progress with the CUP in the remodel process.

Address: 303 J St NE

COMPLETED

PZE Process: Variance

Date Issued: 01/06/2025

Project Description: Variance to exceed the fence height on the side yard (corner) setback requirement for 6' high fences.

Project Progress: Approved and completed.

Address: 9040 Country Manor Way

PZE Process: PUD Amendment

Date Issued: 02/03/2025

Project Description: Amending the original planned unit development plans

Project Progress: In progress

Address: 324 5th St S

PZE Process: Conditional Use Permit & Variance

Date Issued: 03/03/2025

Project Description: Adding two (2) residential apartment units on the second floor and variance from the landscaping requirements.

Project Progress: In progress with the CUP in the remodel process.

Address: 15770 Dellwood Dr

PZE Process: Plat for Common Interest Community (CIC)

Date Issued: 03/03/2025

Project Description: Create a Common Interest Community for twelve (12) individually owned commercial or private storage units

Project Progress: In progress with CIC plat recording process

Address: 310 W Laurel St

DENIED

PZE Process: Rezoning and Zoning Text Amendment

Date Issued:

Project Description: Rezoning commercial property from town Center(TC) to Makers & Employment (ME) to allow for the operation of U-Haul/vehicle rental business.

Project Progress: Denied – options for land swap have been presented to the property owner

Address: 411 N 10th St

PZE Process: Preliminary Plat

Date Issued: 03/03/2025

Project Description: Consolidate fourteen (14) parcels into three (3) lots; one each for the Church, School and Rectory

Project Progress: In progress with the plat recording process



City of Brainerd

Technology Department Monthly Report

February 2025

Projects

- IT integration – discussions, planning, needs assessment, research
- Technology Department – internal postings for open positions
- Performance Review Forms – formatting and formulas, testing, supporting end users
- Community Engagement Survey – results analyzed, charts created, slides

Hardware/Software

- Intune – testing rollout, configuration, security. Will phase out other MDM and patch management.
- Multifactor Authentication (MFA) - implementing 'at log-in' for Police and Technology (per BCA)

Other

- Technical support for numerous meetings – City Council, Park Board, Planning Comm, EDA, etc
- Meetings – many discussions about integration, airport recommendations, council retreat, etc
- Staff added:
- Staff departed: Deputy Airport Director

Statistics

Telephone: total calls 6738↓ (8032)

Transit 2337, City Hall 2105, Police 2075, Fire 197, Public Works 24

Website: total views 10030↓ (13879) users 2717↓ (4877)

Top 5 pages: main, parks & rec, agendas & minutes, employment, search

Email: sent 8455↓ (10291) 302/day, received 35982↓ (41757) 1285/day

YouTube: City channel views 910↑ (670), hours watched 223↑ (178), subscribers +4

Facebook (city): followers 3599 (+18), reach 17300↓ (22700), interactions 552↑ (304)

Cisco Secure Endpoint: files scanned 7.84M↑ (7.65M) IPs scanned 889k↓ (935k)



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Approve Summary of City Administrator Broyles 2024 Performance Evaluation held March 3, 2025.

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director, Gabe Johnson, Councilmember

DEPARTMENT: HR

PRESENTER: Gabe Johnson, Councilmember

ESTIMATED TIME (MIN): n/a - consent calendar

SUMMARY OF ISSUE: The Mayor and Council met in closed session on March 3, 2025, to conduct City Administrator Broyles's 2024 performance evaluation. As required by State Law, a summary of his review is attached.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: n/a - included on the consent calendar

FINANCIAL IMPACT: Based on our pay philosophy, City Administrator Broyles will advance to Step 6 of the City Administrator Wage Grid on February 26, 2025, since he received an "Achieves" expectation rating on this performance review.

CITY ADMINISTRATOR BROYLES 2024 PERFORMANCE REVIEW SUMMARY

March 3, 2025

The Brainerd City Council completed City Administrator Nicholas Broyles's 2024 performance review on March 3, 2025. It was noted that Administrator Broyles started on February 26, 2024. Mr. Broyles review was conducted for the following areas:

	Weighting	Section Eval
Productivity	20%	2.29
Job Knowledge	20%	2.17
Character Attributes	20%	2.21
Communication & Relationships	15%	2.09
Safety	5%	2.13
Supervision	20%	2.04
OVERALL EVALUATION	100%	2.16

Please note that a score of 2.0 equals achieving performance expectations.

City Administrator Broyles identified 14 possible goals for 2025. Mr. Broyles noted that goals are determined by the Council and the goal identified were ideas. The Mayor and Council briefly discussed the goals. It was noted that the majority of the identified goals were for internal/structural items and that the Council would like more ideas for external goals as well. The Council plans to discuss these items in more detail at future Council meetings when additional details are provided and more dialogue is held.

Council members generally had positive comments regarding City Administrator Broyles's performance and identified communication and interaction as possible areas for improvement. City Administrator Broyles was also asked to provide a monthly Council priorities status update.

City Administrator Broyles thanked the Mayor and Council for their feedback.

City Administrator Broyles's overall performance review rating was 2.16 (achieves expectations).

Dated: 3/17/25

2025 Camp Ripley Update

Camp Ripley
"The Warrior's Choice"





Camp Ripley's Mission

Provide superior customer service,
facilities, and resources empowering
organizations to train in a realistic
environment while fostering
Positive Community Relations.





MN Leadership



- **Major General Shawn Manke** is The Adjutant General of the Minnesota National Guard



- **Command Chief Master Sergeant Lisa Erikson** is the Command Senior Enlisted Leader for the Minnesota National Guard



34 ID Leadership



- **Major General Charles Kemper** is the Commander of the 34th Infantry Division



- **Command Sergeant Major Matthew Erickson** is the Command Sergeant Major of the 34th Infantry Division



Camp Ripley Leadership



- **Colonel Troy Fink** is the Garrison Commander of Camp Ripley



- **Command Sergeant Major Rian Hofstad** is the Garrison Command Sergeant Major of Camp Ripley



Economic Impact



Payroll	\$	55,049,879.18
Construction Projects/Maintenance Contracts	\$	21,200,000.00
Utilities	\$	2,618,820.59
Food/Meals	\$	2,003,445.04
Army Compatible Use Buffer	\$	1,302,450.00
Education	\$	790,254.00
Total	\$	82,964,848.81

Camp Ripley has 800-1,000 State & Federal Employees



Location

- 52,831 acres (21,379 ha)
 - 50,731 acres (17,237 ha) Range
 - 2,100 acres (849 ha) Cantonment
- State Owned Property
- Three Counties
 - Morrison
 - Cass
 - Crow Wing
- 18 miles (29 km) of undisturbed Mississippi River
- Level II Training Center
- 45 live and 23 non-live fire ranges





Accomplishments / Events

- In 2024, we hosted 558,056 DoD and 71,393 local/state interagency partners
- In 2024, Camp Ripley Training Center was the third busiest National Guard training center in the country.
- Hosted multiple training events with the Air Force, Navy, Marines, and Coast Guard
- Hosted DNR and State Patrol Academies
- Celebrated the 52nd Anniversary of NOREX





Support to Civil Authorities



Typical Missions:

- Winter Storm Response
- Flood Response
- Wildfire Response
- Civil Disturbance

Typical Associated Tasks:

- Security
- Traffic Control (TCP)
- Evacuation
- Search and Rescue
- Civil Disturbance Control
- Aerial Wild land Fire Response
- Natural Disaster Relief
- Emergency Debris Clearance
- Emergency Shelter
- Mutual Aid (CRTIC)





Construction Update



Current & Future Projects:

- Access Control Point
- Area 5 (BN HQ/Dining Facility/ Supply Building)
- Pistol Range Upgrades
- Renovation of Soldier Quarters (T-Buildings)



Museum Update

MN Legislature approved \$32.7M to build a new Minnesota Military and Veterans Museum

- Currently under construction (Final Completion July 2026)
- Located between Veterans Cemetery & Hwy 371





2025 Scheduled Training

MAR – 6,500 Military (LSSR)

1,950 Civilian

APR – 13,700 Military (MNNG BWC, Ariel Gunnery)

900 Civilian

MAY – 11,800 Military (Ariel Gunnery, Modernization)

2,000 Civilian

JUN – 14,400 Military (Artillery, Modernization)

550 Civilian

JUL – 3,500 Military (Aviation, Armor, Modernization)

650 Civilian (Youth Camp)

AUG – 8,400 Military (Modernization)

1,400 Civilian (Youth Camp)

SEP – 7,900 Military (Armor, Modernization)

1,500 Civilian (Snowplow Training)

OCT – 9,000 Military (Modernization)

4,000 Civilian (Snowplow Training)





Camp Ripley State Partners



MN DNR

- Offices on Post
- Academy conducted
- Annual training events

MN State Patrol

- Offices on Post
- Academy conducted
- Annual training events

HSEM

- Multi-agency training events conducted

MN DOT

- Annual driver training events



Soldier & Family Programs



Military and Family Life Counseling
Mr. John V. Reinert
571.921.5424
john.v.reinert@leidos.com



Soldier & Family Readiness
Mr. Troy Gjerde
320.616.3119
troy.t.gjerde.civ@army.mil

Beyond the Yellow Ribbon
Mrs. Stefanie Hurt
320.616.6192
stefanie.j.hurt.civ@army.mil





Community Outreach

- Camp Ripley Open House (September 14th, 2025)
- Environmental Field Tours, Festivals and Presentations
- Planting for the Future
- Morrison County Water Festival
- Memorial and Veterans Day Speeches
- Christmas Gift Tags (100 tags)
- Food Drives (324lbs)
- Blood Drives (4944 units/pint)
- Job Shadow Program
- Archery Hunting: (ripley.isportsman.net)
- Disabled American Veterans & Soldier Hunts
- Trolling for the Troops Fishing Event
- www.mnvetsoutdoors.org





Environmental Program

“Managing Today’s Resources for Tomorrow’s Mission”

Responsibilities

- Wildlife
- Fisheries
- Forestry
- Protected Species
- Cultural
- Pest Management
- Wetlands
- Noise
- Wild Land Fire
- Outreach & Recreation
- ITAM (Land Rehabilitation)
- GIS

Environment oversight from over 15 Agencies organizations and regulations to include: EPA, USFWS, MPCA, MNDNR, Presidential and Governor Orders, DoD, HQDA, ARNG, DoD, HQDA, ARNG I&E, MNNG, AR-2001, JFMN 200-1





Environmental Partnerships



- Minnesota Department of Natural Resources
- Minnesota Board of Water and Soil Resources
- Central Lakes College
- St. Cloud State University
- U.S. Fish and Wildlife Service
- The Nature Conservancy
- Local School Districts
- Community Interest Groups



Prescribed Burns

When: Approximately March-June
14,690 planned acres for 2025

Why we conduct burns:

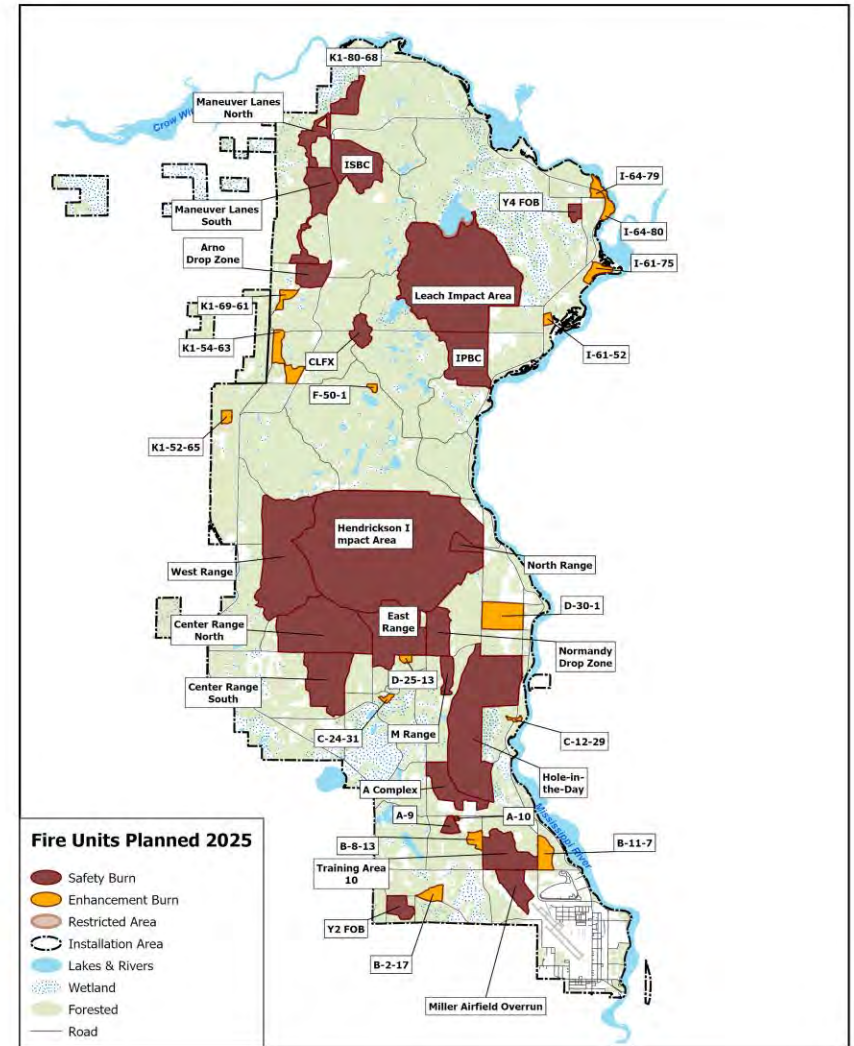
- To create a safe training environment for Soldiers and protect surrounding communities
- Mitigates the risk of fires starting during range firing
- Improve and enhance native fire dependent plant communities

Considerations taken before burns:

- Wind Speed/direction
- Temperature
- Relative Humidity
- Fuel/moisture content
- Training area occupancy

Those involved:

- Camp Ripley's Fire and Emergency Services
- Camp Ripley's Dept. of Public Works
- Camp Ripley's Environmental Team





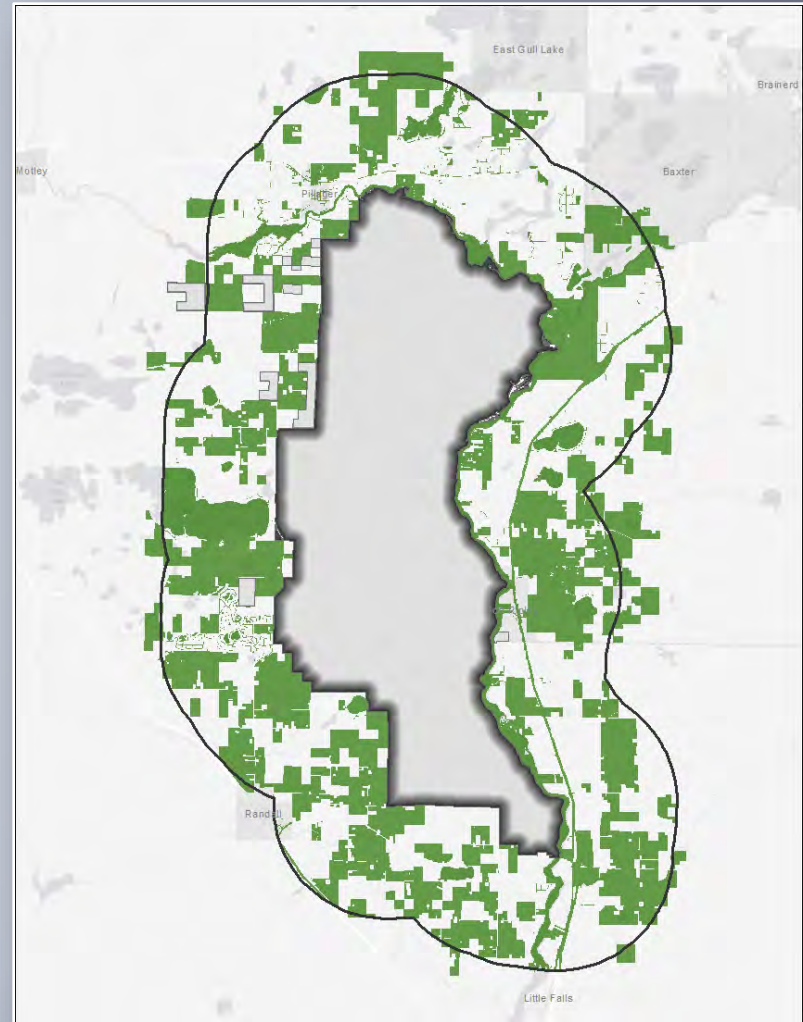
Army Compatible Use Buffer

Conservation Easements and Acquisitions

- ☐ >40,000 acres enrolled
- ☐ Willing Landowners Only
- ☐ Maintaining Rural Landscape
- ☐ Protecting Habitat
- ☐ Protecting Agriculture
- ☐ Eliminating Training Restrictions

Land Management and Restoration

- ☐ Improve Agricultural Operations
- ☐ Manage and Improve Habitats
- ☐ Building Resiliency



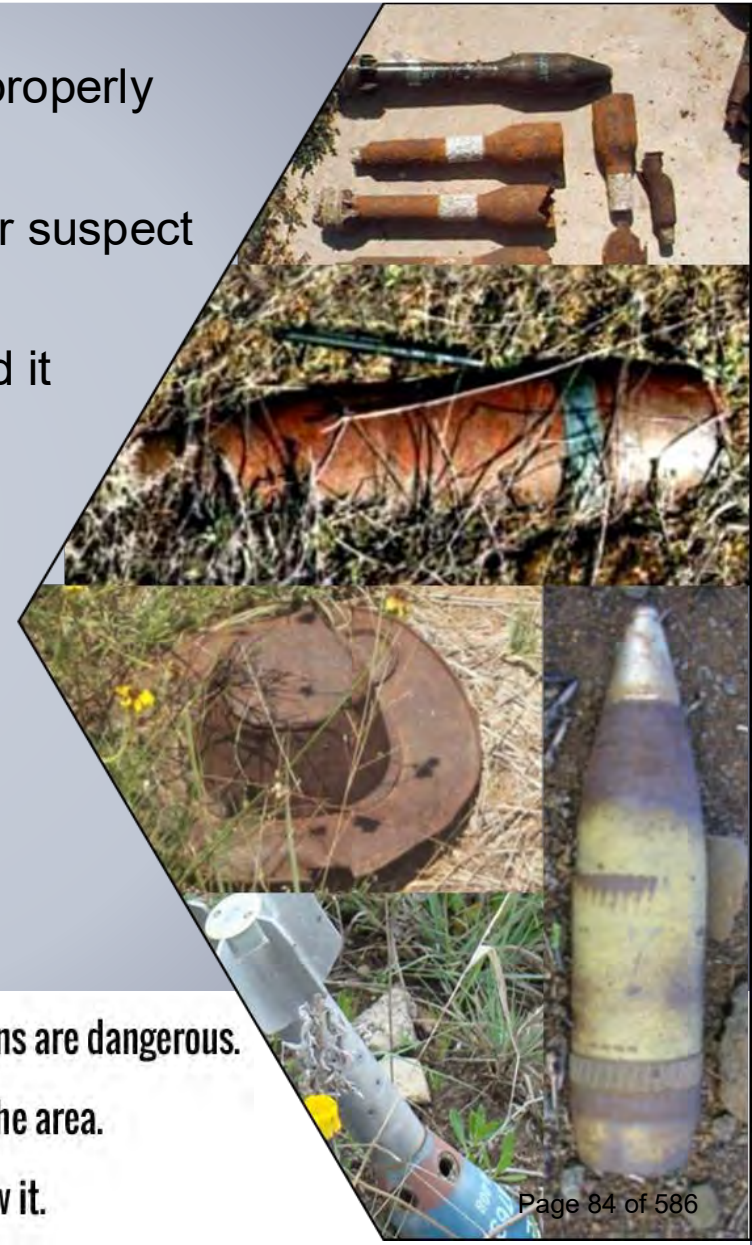


Unexploded Ordnance (UXO)

- (UXO) are military munitions that failed to function properly upon use
- Do not go near, touch, move or disturb a munition or suspect munition
- Carefully, leave the area, the same way you entered it
- Document your location with GPS if available

Reporting

- Off Camp Ripley - DIAL 911
- On Camp Ripley
Range Operations (320) 616-3137
Public Safety (320) 632-7375



- Recognize** - when you may have encountered a munition and that munitions are dangerous.
- Retreat** - do not approach, touch, move or disturb it, but carefully leave the area.
- Report** - call 911 and advise the police of what you saw and where you saw it.



Questions?



Follow up questions?

Please follow our social media or call 320-616-2699





City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Authorize the Police Department to apply for the Lucas Project Grant

AGENDA: SPW Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: John Davis, Police Chief

DEPARTMENT: Police

PRESENTER: John Davis, Police Chief

ESTIMATED TIME (MIN): 3

SUMMARY OF ISSUE: The police department seeks authorization to apply for the Lucas Project Grant from the University of Minnesota Center for Resuscitation Medicine, which would provide a Lucas Chest Compression System (retail value \$20,000) for use in cardiac arrest situations.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: The Lucas Chest Compression System is a portable device that provides chest compressions during a cardiac arrest event. The use of a LUCAS by police officers during a cardiac arrest event prior to ambulance arrival offers several advantages for both the patient and the officers:

Advantages for cardiac arrest patients - consistent high-quality CPR, reduced interruptions in CPR, improved blood flow, facilitation of other lifesaving interventions.

Advantages for police officers - reduced physical fatigue, increased safety, ability to focus on other critical tasks.

The police department operates a fleet of 15 Automatic External Defibrillators (AEDs), which are regularly used during cardiac arrest incidents. These AEDs were also funded through a grant from the Center for Resuscitative Medicine. The reporting requirements for the Lucas grant align with those the department already follows for AED usage. After each device deployment, the agency is asked to complete a voluntary survey that gathers information such as the date and time of the incident, CPR duration, the event's location (urban or rural), etc. Importantly, the survey does not collect any patient or private data. Additionally, the police department must ensure that two officers attend the free one-day Lucas training.

RECOMMENDED ACTION/MOTION: Authorize the Police Department to apply for the Lucas Project Grant.

FINANCIAL IMPACT: none

Opportunity for Law Enforcement LUCAS Deployment in MN



Approximately 25-30% of cardiac arrests in MN are ventricular fibrillation, these are the most survivable cardiac arrest cases.



On scene time, while waiting for EMS, can be longer in rural areas. AEDs can make a difference but when they don't, LUCAS can.



This is a newer concept. Data collected will help future projects and ensure better patient outcomes. Be a part of a new model for care.

Who are we? The Center for Resuscitation Medicine at the University of Minnesota has been working on resuscitation efforts in MN for almost a decade. We primarily work on clinical and research projects that will improve outcomes from sudden cardiac arrest, always carefully watching the outcomes and following the evidence.

In 2022, we implemented the MN AED project to provide AEDs to law enforcement vehicles with funding from the Helmsley Charitable Trust. To date, almost 6500 AEDs have been placed throughout MN agencies with over 2,500 uses. The summary data from these cases shows that officers are providing excellent care to cardiac arrest patients.

LUCAS Benefits With the cardiac arrest data from AEDs and CARES, we know that 25% of all cases have first responders on scene for more than 10 minutes until EMS arrives. LUCAS devices can be the bridge to allow for care during that wait time and potentially provide a chance for survival.

Project plans The CRM will be distributing 50 LUCAS devices to agencies around Minnesota. The application process includes questions about agency cardiac arrests, and how LUCAS will be implemented and maintained. Agencies that receive a device will be required to send two individuals to training and device pick-up. Deadline for applications are April 15, 2025, with a second round in June.

Contact us at mrc@umn.edu
For more info on our program www.crm.umn.edu



Center for
Resuscitation Medicine

UNIVERSITY OF MINNESOTA

Driven to DiscoverSM

Page 87 of 586



Minnesota Law Enforcement LUCAS Fact Sheet

A grant from The Leona M. and Harry B. Helmsley Charitable Trust to the Center for Resuscitation Medicine (CRM) at the University of Minnesota will provide law enforcement, state and national parks and other law enforcement first responders with automatic external defibrillators (AEDs) to improve cardiac arrest survival. This opportunity has provided almost 6500 devices throughout the state. The trust has approved a modification to allow the CRM to provide LUCAS devices in a pilot project with law enforcement.

- In the first year of AED deployment, it has been noted that many of our law enforcement partners in rural Minnesota are on scene for greater than 10 minutes waiting for EMS arrival. 19% of the current total AED uses by law enforcement participating in this grant are over 10 minutes on scene, likely before EMS arrival. Almost 60% of the over 10 minutes were equal or greater than 15 minutes with the longest at 58 minutes and averaging 20 minutes.
- In 2012, our program provided a grant to Breezy Point Police Department in the Brainerd Lakes area. They felt that due to long response times by EMS, they would benefit patient care by utilizing a LUCAS device. Within months of placing the device, they had saved a life. The officer was very clear that the ease of placing an AED, setting up the LUCAS and placing it immediately after the shock, was efficient and done very quickly. Expanding this example by providing LUCAS devices to greater Minnesota would benefit agencies and potentially patient outcomes.
- Requirements are very easy. LEO agencies will apply for a LUCAS device and be asked to provide a plan for response, training plan, and commitment to maintaining the device.
- **Benefit:** Rural agencies often have extended EMS response times and are often on scene for long times providing CPR. We know that for one rescuer, and even with two, providing CPR on scene for any length of time is fatiguing. A recent NIH study (Kim DH, Seo YW, Jang TC. CPR quality with rotation of every 1 versus 2 minutes as characteristics of rescuers: A randomized crossover simulation study. *Medicine (Baltimore)*. 2023 Mar 10;102(10):e33066. doi: 10.1097/MD.00000000000033066. PMID: 36897706; PMCID: PMC9997764.) suggested that CPR providers switch every minute to improve the quality of CPR provided. A LUCAS device can deliver Guideline-consistent, high-quality chest compressions until EMS arrival, buying additional time for ACLS interventions and potentially improving survival.
- **Benefit:** LUCAS devices are on most EMS systems. The device can easily be swapped, making the transition and overall management of the device uncomplicated. This will provide an option to improve outcomes in Minnesota's most rural locations and to populations that currently do not have access to immediate lifesaving tools.

Questions? Email us at mnaed@umn.edu

MN AED Grant - LEO LUCAS Application

john.davis@ci.brainerd.mn.us [Switch account](#)



Draft saved

* Indicates required question

Email *

☐

Record john.davis@ci.brainerd.mn.us as the email to be included with my response

Agency Name *

Your answer



This is a required question

Agency Address *

Your answer



This is a required question

Agency City/Zip *

Your answer



This is a required question



Agency Phone *

Your answer

 This is a required question

Contact Name *

Your answer

 This is a required question

Rank/Title/Role *

Your answer

 This is a required question

Contact Email *

Your answer

 This is a required question

Contact Phone *

Your answer

 This is a required question



Statement of interest: How do you feel that a LUCAS will improve patient care during response to cardiac arrest? Any specifics for your response area that you feel would benefit from LUCAS? *

Your answer

! This is a required question

Counties served *

Your answer

! This is a required question

Agency Geographic Coverage (miles) *

Your answer

! This is a required question

Agency Coverage Population *

Your answer

! This is a required question

Population Demographics (race/ethnicity and income) *

Your answer

! This is a required question



Inter-agency response: do you have agreements to support other agencies in your *
area such as Mutual aid agreements?

Your answer



This is a required question

Next

Clear form

Never submit passwords through Google Forms.

This form was created inside of University of Minnesota Twin Cities.
Does this form look suspicious? [Report](#)

Google Forms



MN AED Grant - LEO LUCAS Application

john.davis@ci.brainerd.mn.us [Switch account](#)



Draft saved

Your email will be recorded when you submit this form

* Indicates required question

Untitled Section

For the next two questions: use any data that you collect or estimate. We will use data that we collect to support and compare. If you don't know, indicate that.

What is your annual cardiac arrest volume? (use estimate or range) *

Your answer



This is a required question

How long are your officers on scene doing CPR prior to EMS arrival? *



> 5 minutes



> 10 minutes



> 15 minutes



> 20 minutes



Other:



This is a required question

Back

Next

Clear form



Never submit passwords through Google Forms.

MN AED Grant - LEO LUCAS Application

john.davis@ci.brainerd.mn.us [Switch account](#)



Your email will be recorded when you submit this form

* Indicates required question

Untitled Section

What EMS agencies respond in your service area? *

Your answer

Do you get outcomes on the patients that your officers perform CPR on? *

☐ Yes

☐ No

What is your plan for training? (examples: will the device be in one vehicle based on response area; will a supervisor respond as secondary)

Your answer

What is your plan for response? (examples: will the device be in one vehicle based on response area; will a supervisor respond as secondary)

Your answer





City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Authorize Technology Department Renovations Using PEG Channel Funds

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Shawn Strong, Technology Director **DEPARTMENT:** Technology

PRESENTER: Shawn Strong, Technology Director **ESTIMATED TIME (MIN):** 5 min

SUMMARY OF ISSUE: - During the Technology integration discussions, it was mentioned that there would be costs incurred to equip and renovate office space for the additional Technology staff. The decision to integrate the Technology Department occurred after 2025 budgets had already been set, resulting in necessary un-budgeted expenses.

- Network wiring reconfiguration for portions of City Hall is estimated to be \$14,966. Door access control reconfiguration is quoted to be \$10,361.50. Furniture is estimated to be around \$5,200. Additional computers, monitors, phones, etc are estimated around \$7,700. Additional licensing will be added as necessary in 2025 (7 months) and budgeted accordingly in 2026. Total up front renovation cost estimate is \$37,728.

- CLC has not had staff to manage the PEG channel or operate city meetings since August 2024. This workload has fallen on city Technology staff during this time. Staff recommends withholding a portion of the cable franchise fee payments to CLC to account for this gap in staffing. No payments for 2024 or 2025 have been made to date. The estimated amount that could be withheld assuming CLC fills the position by May 2025 is about \$30,359.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Staff recommends withholding approximately \$17,945 from the 2024 payment and \$12,414 from the 2025 to CLC. Additionally, staff recommends using the withheld funds to offset most of the expenses that will be incurred during renovations needed to staff the newly integrated Technology Department.

RECOMMENDED ACTION/MOTION: Authorize withholding a portion of the cable franchise fees for 2024 and 2025 and using those funds to offset expenses incurred to integrate the Technology Department.

FINANCIAL IMPACT: Potentially cover \$30,359 of an estimated \$37,728 in un-budgeted expenses.

Technology Department Integration - Initial Expenses

	Qty	Price	One Time Cost	Recurring Annual	Notes
Electrical reconfiguration					
estimate - materials, time - CWC			500		
Network wiring changes					
estimate - time and materials			14,966		
Access Control additions					
quote - time and materials			10,362		
Cooling					
TBD (summer)					
Furniture					
Desk	3	1,000	3,000		
Chairs	3	400	1,200		
Equipment					
Computer	3	1,200	3,600		
Laptop	3	1,200			spares until 2026
Monitor	6	250	1,500		
Desk phone	3	200	600		
Cell phone	3	280		840	3(\$40*7mo)
Printer	1	2,000	2,000		
Licensing					
Microsoft365 (G3)	3	32/mo		672	3(\$32*7mo)
Webex Calling	-				have lics
Adobe Acrobat (std)	3	52/yr		156	
Laserfiche	-				share lics
Cisco Secure Endpoint	3	50/yr		150	
Cisco Duo	3	72/yr		216	
Cisco Umbrella	3	25/yr		75	
TeamViewer	-				added channel
Knowbe4	4	27/yr		108	
Unify IT	3	17/mo		357	3(\$17*7mo)
			37,728	2,574	

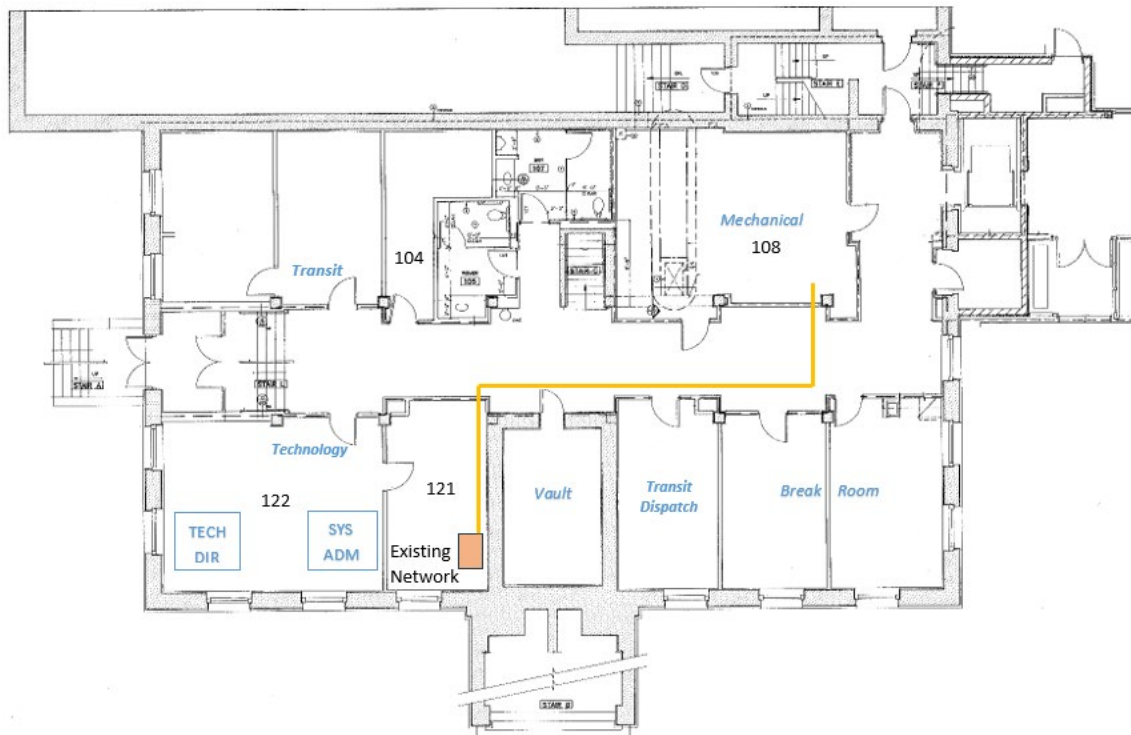
Technology Department Integration - Withhold PEG Funds

No CLC PEG staff since Aug 2024, anticipated replacement by May 2025

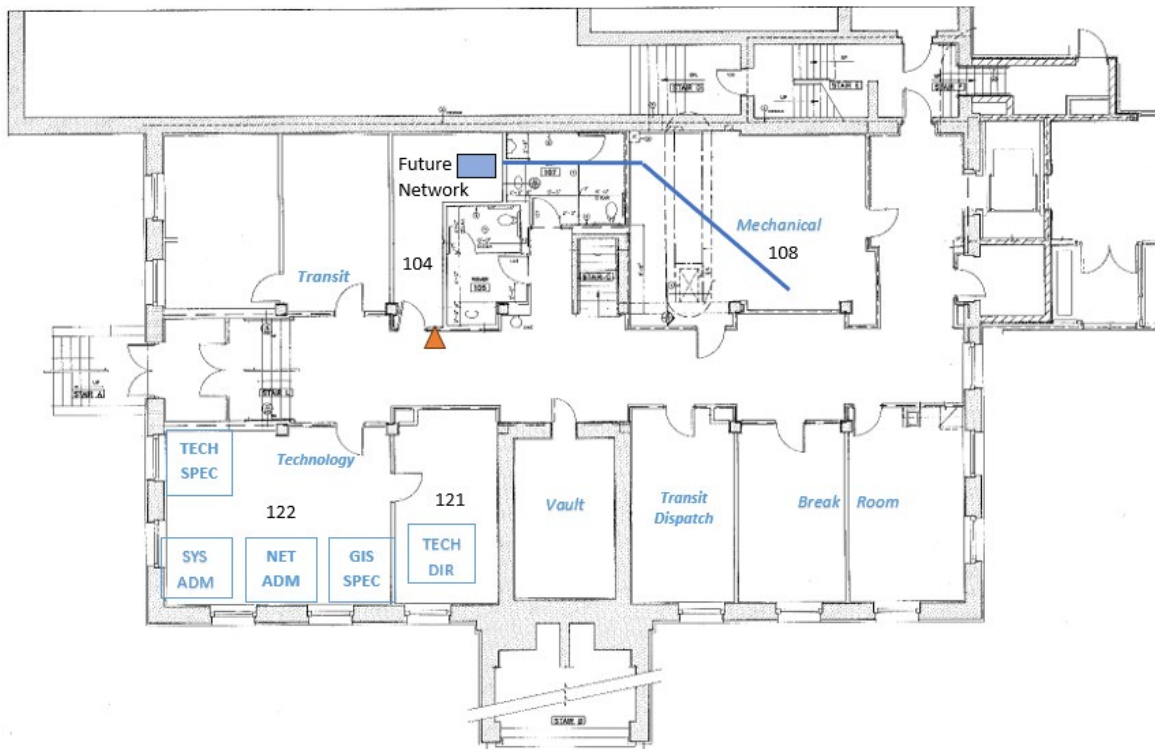
Year	50% of cable fees	Monthly	Withhold
2024	58,065.30 /12	4,838.78	
		<u>-1,250.00</u> fixed costs	
		3,588.78 * 5 mo (Aug-Dec 2024)	17,943.90
2025	52,243.25 /12	4,353.60	
		<u>-1,250.00</u> fixed costs	
		3,103.60 * 4 mo (Jan-Apr 2025)	12,414.40
			<u>30,358.30</u>

Technology Department – City Hall First Floor Renovations

Existing



Future





City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Discuss Orderly Annexation of Riverside Drive

AGENDA: P&F Committee

ACTION REQUESTED: Direction Requested

SUBMITTED BY: James Kramvik, Community Development Director, Jessie Dehn, City Engineer, Connie Hillman, Finance Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community Development Director, Jessie Dehn, City Engineer, Connie Hillman, Finance Director

ESTIMATED TIME (MIN): 10 min

SUMMARY OF ISSUE: In 2003, the City constructed a utility extension project along Riverside Drive. The project included extension of the watermain and sanitary sewer system from Jackson Street to east of Ashmun Road. Included with the construction was installation of water and sanitary sewer service lines to the right-of-way at parcels along Riverside Drive. It was the intention that this project would allow existing properties to connect to the City utility infrastructure and no longer use wells and septic systems for their water and sewer.

The City Council considered an Assessment/ Connection Policy for Riverside Drive at their June 2nd, 2003 meeting regarding properties outside its corporate boundaries that have the ability to connect to City water and sewer services. The policy was reviewed by City Attorney Fitzpatrick and was approved by a 6-1 majority vote. After the policy was enacted, MN State Statute changed regulations on how municipalities are allowed to force annexation. As a result, the City of Brainerd has no statutory authority to force municipal utility connection to properties outside its City limits. However, the City can require a property owner to petition for annexation in order to connect to municipal utilities. Cities can require residents within its boundaries to connect to municipal services once their septic system fails.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Based on the 2003 policy, staff believes that it was City Council's intention to annex properties along Riverside Drive that have availability to connect to municipal services. These properties would have been required to connect within three years or when their septic system failed. Through the annexation of the remaining unincorporated properties along Riverside Drive, the City can require property owners to connect to municipal services by ordinance.

City staff has held meetings with Crow Wing County regarding the proposed annexation of a portion of Riverside Drive. All properties proposed for annexation are in Unorganized 1st Assessment Territory. Attached is a map showing these properties highlighted in red. Annexation of the properties highlighted in red would create a single contiguous area along the Riverside Drive (and side streets) corridor that

are mostly able to be served by municipal utilities northeasterly up to Shady Hills Trail. There are some areas that currently do not have accessible utilities (Karr Drive or half of Ashmun Road) but to keep one contiguous area, staff recommends including these properties in the orderly annexation area with the intent that these properties could be served by utilities with a utility extension as part of a potential road project at a future time. There are currently areas in the City of Brainerd that are not able to be served by municipal utilities (i.e. 28th Street SE), thus there is precedent for inclusion of these properties in the proposed orderly annexation area for the reasons described.

It was suggested to consider putting the proposed annexed properties Rural Service District (RSD) to ease the tax burden of the annexation. We do not have the final tax rates for pay year 2025, but for pay year 2024, the City's urban total tax rate (includes county, school district etc.) was 97.061%, RSD total tax rate was 73.876% and Unorganized - 1st assessment was 50.818%. There is a slight difference in the tax rates for the County and School District between each jurisdiction classification. Below is a comparison for PY 2024 for a residential homestead with an estimated market value of \$262,500.

PY 2024	Unorganized -1st Assmt	City - Urban	City - Rural
Total Property Tax	\$1,474	\$2,625	\$2,048
City/Township	\$210	\$1,349	\$768

City urban tax rate for PY 2024 was 54.183%, and the RSD tax rate was 30.858%.

Per the attached policy that was adopted July 17, 1995, all lands annexed into the City that do not have municipal sewer and /or water service to the said lands at the time of annexation, will be placed into the RSD. Later in the policy, it states annexed lands that received urban services, specifically water and sewer service, shall be transferred to the urban service district.

ORDERLY ANNEXATION IN DESIGNATED UNINCORPORATED AREA: One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

RECOMMENDED ACTION/MOTION: Staff is seeking direction from Council on how to proceed with the RSD. Staff have provided the following options:

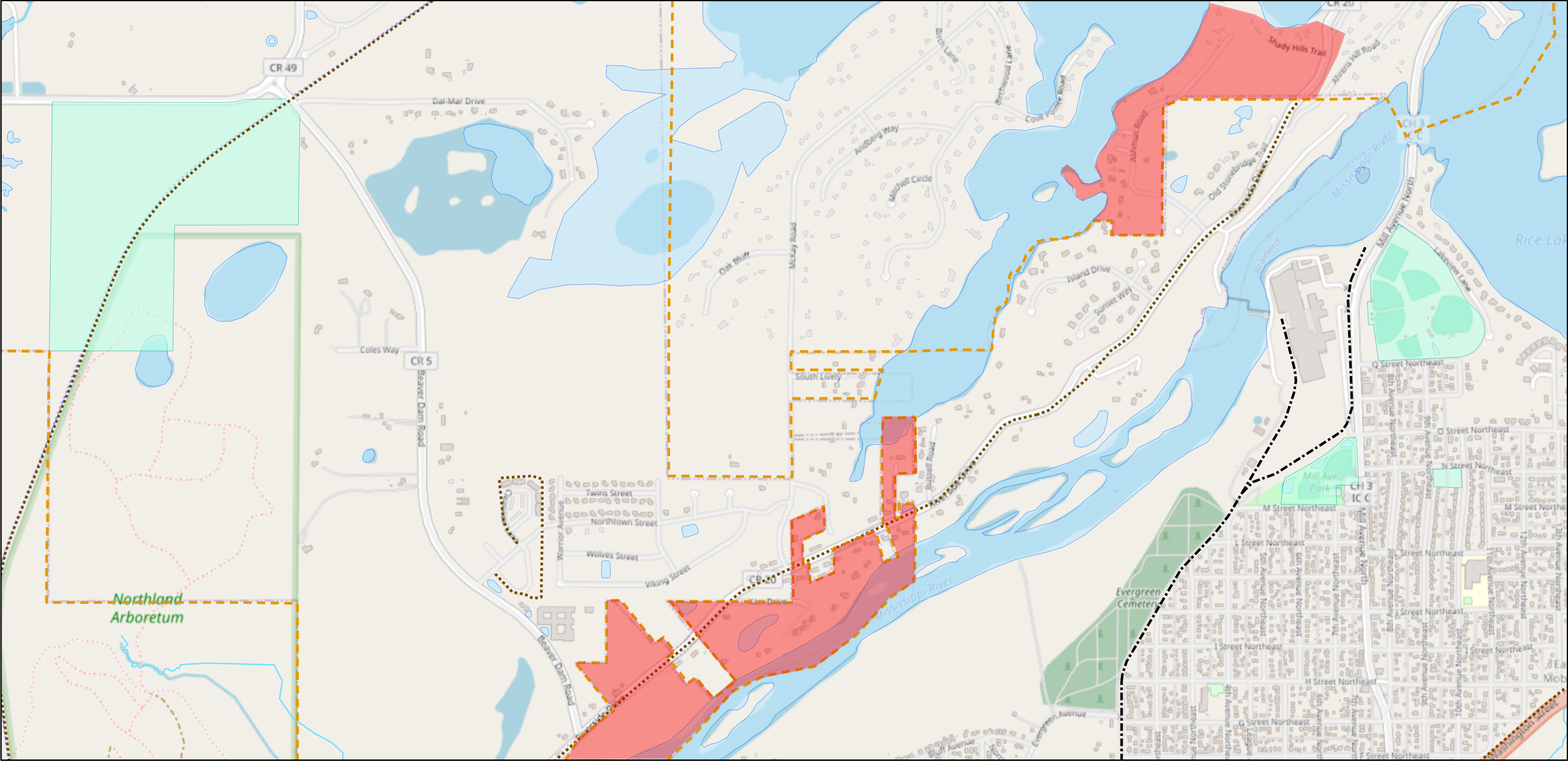
- (1) continue following the 1997 policy;
- (2) amend the policy;
- (3) eliminate the RSD and if eliminated, how to handle current parcels in the RSD.

Note: Changes to the RSD policy should be completed prior to initiating orderly annexation.

Staff recommends initiating the orderly annexation process for a portion of Riverside Drive as depicted in the proposed annexation map if the recommendation is to continue with the 1997 RSD policy.

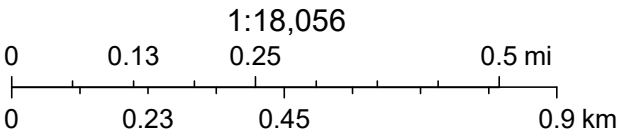
FINANCIAL IMPACT:

City of Brainerd



6/3/2024, 12:31:54 PM

 BrainerdOnline - City Limits



Map data © OpenStreetMap contributors, CC-BY-SA

CITY OF BRAINERD DIVISION OF LAND
INTO RURAL AND URBAN SERVICE DISTRICTS

It shall be the policy of the City of Brainerd that all lands annexed into the City that do not have municipal sewer and/or municipal water service to said lands at the time of annexation, be placed into a "rural service district", pursuant to Minnesota Statutes Section 272.67. Said district shall be taxed after annexation at a rate of eighty-eight percent (88%) of the total tax rate, as adjusted on an annual basis, in the urban service district. Annexed lands, or a portion thereof, that receive urban services, specifically municipal sewer and/or municipal water service, shall be transferred by the City to the urban service district and shall be taxed at a rate which is the same as all other properties located in the urban service district, beginning with the next succeeding calendar year.

The City of Brainerd shall annually review the status of all parcels located in rural service districts to determine whether such parcels continue to qualify for inclusion in the rural service district.

Adopted: July 17, 1995



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Ratify the Hiring of Courtney DeChaine for a Police Records Management Technician Position

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director, John Davis, Police Chief

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: We received 41 applications for the Police Records Management Tech position with 10 candidates interviewed. Staff offered the position to Courtney DeChaine who started with us on March 5, 2025, at Step 1 of the 2025 Police Records Management Tech wage grid (\$25.32 per hour).

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: Ratify the hiring of Courtney DeChaine for the Police Records Management Technician position effective March 5, 2025; further, that she be placed on Step 1 of the Police Records Management Technician wage grid (\$25.32 per hour).

FINANCIAL IMPACT: This position was included in the 2025 budget.



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Ratify the Reclassification of Aaron Andersen to Technology Coordinator

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director, Shawn Strong, Technology Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director, Shawn Strong, Technology Director

ESTIMATED TIME (MIN): 2 Minutes

SUMMARY OF ISSUE: On March 3rd, the Council approved a Memorandum of Agreement with the IBEW Administrative Support Union setting the wages for the new Technology Department positions. All vacant positions were posted internally and one employee applied for the Technology Coordinator position. Staff recommends to reclassify Aaron Andersen to the Technology Coordinator position effective March 18, 2025; further, that he be placed on Step 7 of the Technology Coordinator Wage Grid (\$60.46 per hour).

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Typically, the Employee Policy Manual requires that the employee be placed on the step that is at least 3% higher than their current wage for a reclassification. In this situation, Mr. Andersen is currently being paid \$60.46 and, since he is already on Step 7 of his current grid, Step 7 is the highest step he can be placed in accordance with our historical step placement practice. Mr. Andersen could advance to Step 8 in the future if he receives an exceeds performance evaluation rating pursuant to our pay philosophy.

In addition, it should be noted that Mr. Andersen was exempt from overtime in his previous Technology Supervisor position. With the integration into a single Technology Department and since the Technology Coordinator position is represented by the IBEW Administrative Support Union contract, Mr. Andersen will now be eligible for overtime per union contract provisions.

RECOMMENDED ACTION/MOTION: Motion to reclassify Aaron Andersen to the Technology Coordinator position effective March 18, 2025; further, that he be placed on Step 7 of the Technology Coordinator Wage Grid (\$60.46 per hour).

FINANCIAL IMPACT: The new Technology positions and applicable wages are included in the 2025 budget.



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Ratify the 2024-2026 Contract Terms and Wage Resolution with IBEW Local No. 31 (Public Utilities) Union

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources Director, Nick Broyles, City Administrator

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: On November 19, 2024, an arbitration hearing was held regarding the 2024-2026 IBEW Union contract representing the Public Utilities employees. On January 30, 2025, we received Arbitrator Kelly's decision. In addition, during mediation on August 16, 2024, the City and the Union reached tentative agreements on several other items. Attached is the tentative agreement summary as well as the arbitrator's decision for ratification by the Council. The contract includes the below Across the Board Increases (ABI) for the 2024-2026 contract for employees on our wage grid:

1/1/2024	7/1/2024	1/1/2025	7/1/2025	1/1/2026
2.5%	2.25%	3.75%	2.75%	3%

The following wage grid was approved for employees that are still on our Legacy Pay system:

1/1/2024	7/1/2024	1/1/2025	7/1/2025	1/1/2026
2.5%	n/a	3.75%	1%	3%

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION:

1. Motion to ratify the attached tentative agreement summary and Arbitrator Kelly's decision regarding the 2024-2026 IBEW Local No. 31 Union contract representing the Public Utilities employees; and
2. Adopt the attached resolution setting the 2024 - 2026 wages for the IBEW Local No. 31 Union (Public Utilities) employees.

FINANCIAL IMPACT: The wage adjustments were included in the Public Utilities Department's 2024 and 2025 budgets.

SUMMARY OF TENTATIVE AGREEMENTS

August 16, 2024

Article 5 - VACATION

Section 1. All full-time employees shall be granted paid vacation of eighty (80) hours after one (1) year of service. Basis of earned vacation shall be one hundred and thirty-five (135) working days within the first calendar year of employment and one hundred ten (110) working days within a calendar year thereafter. For this section, "working day" is defined as an eight (8) hour period during which the employee is actively working or is using eight (8) hours of accrued vacation, sick leave or holiday pay.

...

Section 4. All full-time employees hired on or after January 1, 2009 shall earn vacation at the rate of:

6.67 hours per full month worked during the employee's first five (5) years of employment. Thereafter, employees shall earn vacation as follows:

Years of Service	After Completion of: Hours per Month	Years of Service	Hours per Month
5	10.00	17	15.33
10	10.67	18	16.00
11	11.33	19	16.67
12	12.00	20	17.33
13	12.67	21	18.00
14	13.33	22	18.67
15	14.00	23	19.33
16	14.67	24	20.00

Article 6 - SICK LEAVE AND OTHER LEAVES OF ABSENCE

Section 1. **Sick Leave.** All full-time employees shall be credited with eight (8) hours of sick leave for each month worked. Sick leave accumulation shall be nine hundred sixty (960) hours maximum. A physician's certificate may be required if in the opinion of the Employer it is deemed necessary, consistent with the Earned Sick and Safe Time (ESST) statute, Minn. Stat. § 181.9445. Eligibility for sick leave shall be credited from the original date of hire. Employees shall notify the Employer at or before their normal starting time on each day they are calling in sick, except when they have notified the Employer of a long-term absence by direction of treating physician. If the need for use of ESST is foreseeable, employees must provide seven (7) days' advance notice of the employee's intent to use ESST. If it is not foreseeable, the employee must follow the City's personnel policy on the use of ESST. An employee may use personal sick leave benefits provided by the employer for absence due to illness of or injury to the employee's spouse, child, step child, father, mother, brother, sister, father-in-law, mother-in-law, grandparent or grandchild for such reasonable periods as the employee's attendance with the family member may be necessary, on the same terms the employee is able to use sick leave benefits for the employee's own illness or injury and for such other purposes as permitted under statute, consistent with the City's ESST policy.

...

Section 3. **Health Care Savings Plan (HCSP) - for Post Employment.**

...

C. Payroll Deduction. Employees will contribute as follows based on years of service:

<u>Years of Service</u>	<u>Per Pay Period</u>
0 to 5	\$30.00
5 to 10	\$45.00
10 to 20	\$ 75.00
20-30	\$100.00
30+	\$150

Article 10 - HOURS OF WORK AND CONDITIONS

...

Section 4. **Overtime Rates.** Time worked in excess of eight (8) hours as defined in Article 10 Section 2 in any one work day shall be considered overtime in fifteen (15) minute increments and paid for at the rate of one and one-half (1-1/2) times the regular straight time rate of pay. Time worked in excess of sixteen (16) consecutive hours shall be considered overtime and paid for at the rate of double time (2) times the regular straight time rate of pay. Prior to scheduling overtime, the overtime must be approved by the ~~Public Utilities Director Superintendent~~ or designee. In no case shall hours paid at the overtime and/or premium rate be pyramided, compounded or paid twice for the overtime calculation.

...

Subd. 2. **Comp Time.** Employees shall have the option of compensatory time off instead of pay for overtime or double time hours worked. Compensatory time off may be accrued to a maximum of sixty (60) hours. Compensatory time off shall be scheduled by mutual consent between the employee and his/her supervisor. Employees may carry over up to thirty (30) hours of compensatory time off from one year to the next. Pay for compensatory time over thirty (30) hours shall be paid on the first payday of the first full pay period the new year with payment at the December 31st (previous year) rate of pay. Hours accrued at out of class compensatory time shall be paid out first.

Section 5. **Sleep Time.** Employees called in after 5 am or two hours before their regular start time shall not be eligible for sleep time and may adjust their work schedule that day with mutual agreement by their supervisor. Employees that are called in or scheduled to work for ~~unscheduled~~ electric, water, wastewater or locating emergencies between the hours of 10 pm and 5 am before their scheduled shift will be entitled to sleep time, hour for hour, for hours worked. He/she will not be required to report to work for a corresponding number of sleep time hours on that regular scheduled workday without loss of pay. When a bargaining unit employee becomes entitled to sleep time and is not released for their earned rest during the regular work-day, they shall receive double time (2X) for the period of earned rest. If released, rest time shall be at the straight time rate.

Article 11 - INSURANCE

Section 1. **Health Insurance.** The Employer agrees to pay 80% of the family premium and 95% of the single premium for the \$3,200 single, \$6,400 family high deductible health insurance plan. A summary of this plan as well as other health plans that can be offered during this contract are outlined in Appendix B. This plan also includes 100% preventative coverage as required by law.

Article 12 - WAGES

...

Section 2. Employees Hired Before January 1, 2021 (Legacy Pay Plan).

Employees hired before January 1, 2021, must make an election to be paid in accordance with either: (1) Article 12, Section 1 of this Agreement and the applicable pay table in Appendix A or (2) this Section (Article 12, Section 2) of the Agreement. In order to make the election, an employee must inform the HR Director, in writing (e-mail is acceptable, but not text message), of his or her choice no later than by 3:30 pm on the 14th calendar day after the ratification of the 2021-2023 contract by both the Union and the Employer. Once an employee elects to be paid pursuant to Section 1 of this Article (the Wage Grid), that election is **irrevocable** and cannot be changed at a later date.

If an employee does not notify the HR Director by 3:30 p.m. on the 14th calendar day after ratification of the 2021-2023 this contract, the employee will be deemed to have elected to be paid in accordance with Article 12, Section 1 of this Agreement and the applicable pay table marked as Appendix A. Such election by default is also **irrevocable** and cannot be changed at a later date.

...

Section 9. **Standby Duty.** Stand-by pay for the Line, Meter, Wastewater and Water Departments will be under the following terms and conditions:

Line Department. It is understood and agreed that each week from Wednesday morning and continuing for one week until the following Wednesday morning, two employees will serve standby duty. Regular employees qualified for standby duty shall be the crew chiefs, journeyman lineworker and apprentice lineworker at or above 4th 6 months.

Meter, Wastewater and Water Departments. It is understood and agreed that each week from Wednesday morning and continuing for one week until the following Wednesday morning, one person from each department will serve standby duty.

The employees on standby will not be required to remain at one specified place, but they shall be within reach by telephone. Employees will provide Brainerd Public Utilities with phone number(s) to use for call out. Employees on-call will be subject to a maximum of 45 minutes response time.

The employee on standby shall receive for such standby duty each week while on standby duty: one (1) hour pay at one and one-half times their straight time classification rate for each weekday and two (2) hours pay at one and one-half times their straight time classification rate for each weekend day plus \$75.00 extra per holidays. The standby pay shall not be deducted from the hours actually worked.

NOTE: To clarify, the above standby pay calculation would equal a total of 13.5 hours of pay for each week plus an additional \$75 of pay for a holiday.

Call out rates and provisions will remain the same as current contract.

Standby pay shall be paid at the specified rate, or, by mutual agreement of the employee and employer, may be banked as compensatory time equivalency.

Article 12 – Wages

The pay in Section 1 and Section 2, as determined in interest arbitration for all employee in active payroll status at the time of the arbitrator's award shall be retroactive to January 1, 2024.

Signed and agreed to this 16th day of August 2024:

IBEW LOCAL 31

Win Kyles

CITY OF BRAINERD Administration intends to present this to the City Council on Monday, August 19, 2024, for consideration.

Kristy Schubert

IN THE MATTER OF ARBITRATION BETWEEN:

International Brotherhood of Electrical Workers,
Local 31,

Union

and

City of Brainerd, Brainerd Public Utilities,

Employer

DECISION OF ARBITRATOR

BMS Case No. 24-PN-0860

Arbitrator:
Hearing Date:
Post Hearing Briefs Received by Agreed Time:
Date of Decision:

Patrick J. Kelly
December 18, 2024
January 31, 2025
February 27, 2025

Appearances:

For the Union:

Jane Poole, Attorney
302 W. Superior St., Suite 300
Duluth, MN 55802
Kristin Renskers, Union Representative
Mandy Selisker, BFU-IBEW Steward
Eric Berube, Union Representative
Will Keyes, Business Manager

For City of Brainerd/Employer:

Ann Goering, Attorney
444 Cedar Street, Suite 2100
St. Paul, MN 55101
Tim Sullivan, Attorney
444 Cedar Street, Suite 2100
St. Paul, MN 55101
Nick Broyles, City Administrator
Kris Schubert, HR Director
Brittney Boser, HR Assistant
Gabe Johnson, City Council

INTRODUCTION

The International Brotherhood of Electrical Workers Local 31 (The Union) and the City of Brainerd Public Utilities (The City) are parties to a Collective Bargaining Agreement (CBA) that expired on December 31, 2023. The parties attempted extensive negotiations and mediations facilitated by the Bureau of Mediation Services (BMS). All avenues were unsuccessful in terms for a successful CBA.

On August 20, 2024, the Bureau of Mediation received a written request from both the City and the Union to submit contract negotiations to final offer "Total Package Interest Arbitration."

On August 30, 2024 the BMS pursuant to MN Statute 179A.16 subd 1 and Minn Rule 5510.2930, BMS certified the matter to Arbitration. Each party submitted their final positions to the BMS no later than Monday, September 16, 2024. Both the City and the Union submitted their final positions in a timely manner.

The Arbitrator, Patrick J Kelly, was selected from a panel provided by the BMS. A hearing was conducted on December 18, 2024, at the Brainerd City Hall. The Parties thereupon agreed to submit post hearing briefs by email on or before January 31, 2025. The briefs arrived in a timely manner and the record was closed on January 31, 2025, the date the briefs were received.

BACKGROUND

The City of Brainerd, according to the US Census Bureau has a population of 14,563 as of July 1, 2023. Brainerd is a home rule charter city located in Crow Wing County, Minnesota.

On December 18, 2024, the Hearing date, the City employed 114 employees, City Exhibit 6. The Brainerd Public Utilities (BPU) is a department within the City.

The record reflects that the City has eight Bargaining Units: 1. IBEW Public Utilities; 2. IBEW Administrative Support; 3. USW Hydro Plant; 4. LEIS Police Officers; 5. Teamsters Local 346 Police Supervisors; 6. IUOE Public Works – Parks; 7. Public Works – Streets; 8. Brainerd Utilities Managers and Supervisor Association (BPU Supervisors) also 4 supervisory BPU employees approved by the BMS in July 2024.

A list of Current Job Titles within the Bargaining Unit is stated in Union Exhibit 4. The Titles are as follows:

Titles in **Bold** – Positions on pay grid that are currently filled by non-Legacy pay plan employees

1. **Laborer**
2. **Accounts Receivable Representative**
3. **Cashier**
4. **Payables/Payroll Specialist**
5. **Accountant I**
6. **Water Plant Operator**
7. **Water Plant Chief Operator**
8. **Wastewater Operator**
9. **Wastewater Crew Chief**
10. **Water Service Worker**
11. **Meter Tech/Locator**
12. **Line Worker**
13. **Maintenance Electrician**
14. **Maintenance Mechanic**
15. Administrative Assistant (Legacy employee)
16. Credit/Collection Representative (Legacy employee)
17. Billing Representative (Legacy employee)
18. Water Crew Chief (Legacy employee)
19. Electric Line Crew Chief (Legacy employee)
20. Utilities Senior Engineering Tech/Project Manager (Legacy employee)

21. Facilities and Grounds Maintenance Worker (Legacy employee)
22. Materials Control (Legacy employee)
23. IT/Data Analyst (vacant & no plan to fill role as of 12/02/24)
24. Meter Service Worker (vacant & no plan to fill role as of 12/02/24)

New Positions added in 2024:

1. Business Office Support Specialist unfilled as of 12/16/24
2. Journeyman Electrician unfilled as of 12/16/24
3. Facilities Custodian unfilled as of 12/16/24

The total of current employees in the Bargaining Unit is thirty-seven (37). Of the 37, eleven (11) remain on the Legacy Pay Plan and twenty-six (26) employees are on the current wage grid. (Union Exhibits 26 and 27)

The City, at the time of the Hearing, had settled four (4) of the eight (8) Bargaining Unit Contracts through 2026 or 2027. The settled contracts moved to the City's Flaherty and Hood (F&H) wage grid in 2024 or 2025. "Three (3) Bargaining Units had open contracts and the BPU unit is subject to this interest arbitration. The labor unions with contracts that place employees on the F&H grid represents 50 employees or approximately 44% of the total number of employees employed by the city." (Union Brief Page 6)

ISSUES

On the date of the hearing, December 18, 2024, “the City dropped Issue #11 (Steps) and the Parties agreed on Issues #7, #8 and #9 (annual wage adjustments for the Legacy Pay Plan employees) and Issue #10 (Duration). Therefore, the only issues remaining for resolution by the Arbitrator are issues #1-6 of the remaining six (6) issues. The most contentious is issue #3 which asks whether the employees will be moved to a new wage grid as proposed by the city or remain on the current wage grid as proposed by the Union.”

Eleven (11) issues were certified by the BMS to final item-by-item interest arbitration; however, not all remain in dispute. Those issues, with the respective final positions of the City and the Union, are as follows:

1. Article 4, Section 7 – Discrimination

City Position: Article 4, Section 7 of the CBA should be removed.

Union Position: No change to existing CBA language.

2. Article 9, Sections 1 & 3 – Holidays; Juneteenth

City Position: Juneteenth should be exchanged for one existing floating holiday.

Union Position: Juneteenth should be added without reduction to the floating holidays.

3. Article 12, Section 1 and Appendix A – Wages; Wage Grid Implementation

City Position: There should only be one wage grid for all City positions, which is the new grid developed in conjunction with the 2023 Flaherty & Hood Classification and Compensation Study (“F&H Grid”).

Union Position: City employees in the Public Utilities Department should have a separate wage grid from all other City employees.

4. Article 12, Section 1 and Appendix A – Wages; 2024 Wage Adjustments

City Position:	1/1/2024:	2.5% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2024:	2.25% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2024:	4% increase to old wage grid

5. Article 12, Section 1 and Appendix A – Wages; 2025 Wage Adjustments

City Position:	1/1/2025:	3.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2025:	2.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2025:	3.75% increase to old wage grid

6. Article 12, Section 1 and Appendix A – Wages; 2026 Wage Adjustments

City Position:	1/1/2026:	3% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2026:	3% increase to old wage grid

7. Article 12, Section 2 – Wages; 2024 Legacy Pay Plan Adjustments

Issue not in dispute

8. Article 12, Section 2 – Wages; 2025 Legacy Pay Plan Adjustments

Issue not in dispute

9. Article 12, Section 2 – Wages; 2026 Legacy Pay Plan Adjustments

Issue not in dispute

10. Article 13, Section 2 – Duration

Issue not in dispute

11. Article 13, Section 2 – Steps

Issue dropped by City

ISSUES IN DISPUTE

#1 DISCRIMINATION

Article 4, Section 7 – Discrimination

City Position: Article 4, Section 7 of the CBA should be removed.

Union Position: No change to existing CBA language.

DECISION: City Position: Article 4, Section 7 of the CBA should be removed

Rationale

Article 4 of the CBA governs Employer/Employee Relations and Section 7 “No employee shall be discriminated against under the provisions of this Agreement on any basis.” (City Exhibit I Art. 4 Sec 7) (Union Exhibit 1)

The City believes that retaining the language would expand the grievance process to discrimination claims, that should be handled through legal avenues.

Union Business Manager, Will Keyes, testified for the bargaining unit since 2015 stated that the discrimination clause has never come up or been an issue since his involvement with the bargaining unit.

The Union provided no evidence that the discrimination clause had been used. The Union stated the Article 4 Section should not be removed if there is no quid pro for removing the clause.

Reviewing other City bargaining unit contracts, there is no other similar language used in the City’s labor contracts except for Teamster Local 346’s Police Supervisory Unit. In reviewing the Police Supervisors CBA, it is different. It states “Neither the Employer nor the Union will discriminate against any employee on any basis. Employees shall have the rights granted to all citizens by the United States, Minnesota State Constitution, State Statutes, and Police Officers

Bill of Rights.” City Appendix, D, §23.1. The language of the Police Supervisors clause is not truly comparable.

The Union, through its Book 2 exhibits noted other units throughout the state that had non-discrimination clauses:

1. Ex 33 Local Union 949 IBEW/Alexandria Board of Public Utilities- January 1, 2023- December 31, 2025
 1. Article 1 – No Discrimination clause Recognition
2. Ex 35 Between Baxter and American Federation of State, County and Municipal Employees AFL-CIO Local #689B – January 1, 2-23-December 31, 2025
 1. Article 2 – Recognition
 - a. Section 3 – Nondiscrimination clause
3. Ex 39 City of Brainerd and Teamsters General Local Union No. 346–January 1, 2022 – December 31, 2024
 2. Article 23 – Non-Discrimination/Constitutional Protection
 - a. 23.1 No Discrimination
4. Ex 60 The International Brotherhood of Electrical Workers, Local 949 and the Public Utilities Commission of the City of New Ulm – January 1, 2022 – December 31, 2024
 1. Article II – 2.03 – No discrimination
5. Ex 64 City of North Branch and International Union of Operating Engineers Local 49 AFL-CIO – January 1, 2022 – December 31, 2024
 1. Article 4 – Non-discrimination
6. Ex 66 City of Sartell and Minnesota Teamsters Local Number 320 –January 1, 2024 – December 31, 2026
 1. Article 6 – Non-discrimination
7. Ex 68 Willmar and AFSCME Council Local 559 General Unit January 1, 2023 – December 31 2025
 1. Article 6 – Non-discrimination
8. Ex. 69 Willmar and AFSCME Council Local 559 Public Works Unit January 1, 2023 – December 31 2025
 1. Article 6 – Non-discrimination

However, in reviewing the internal comparison groups of the city’s exhibits there is no comparable language of non-discrimination clauses:

Retaining Article 4 Sec. 7, according to the City, “could inappropriately expand the grievance process to discriminate claims, which should be handled through legal avenues.” (City Exhibit 1, Art 4, Sec 7)

There is a history of the federal government eliminating discrimination in its contracts.

1. Started with Executive Order 8802 June 1941, President Franklin D. Roosevelt signed the Executive Order prohibiting government contractors from engaging in employment discrimination based on race, color or national origin. Note: there was no enforcement authority.
2. Executive Order 10925 March 1961, President John F Kennedy prohibiting federal government contractor from discriminating. It also gave the Presidents Committee of Equal Employment authority to impose sanctions for violations

The following are examples of Federal Laws on discrimination. The excerpts are taken from EEOC History: The Law | U.S. Equal Employment Opportunity Commission (www.eeoc.gov/history)

*Equal Pay Act of 1963 – The EPA is the first National Civil Rights Legislation focusing on discrimination

*Civil Rights Act of 1964 – One section referred to as Title VII prohibits employment discrimination based on race, sex, color and national origin

*Title VII of the Civil Rights Act created the U. S. Equal Employment Opportunity Commission (EEOC). Its mission is to eliminate unlawful employment discrimination

*Age Discrimination Act- Employment Act (ADEA) 1967 – The Act empowered EEOC with litigation authority. If the agency cannot secure an acceptable conciliation agreement, it has the option of suing nongovernment respondents – employers, unions,

and employment agencies. As part of the Act, State and local government are no longer exempt from Title VII

*Rehabilitation Act of 1973 – Model for Americans with Disabilities Act (ADA) of 1990, which prohibits employment discrimination on the basis of disability

The CBA in its function affirms that all its provisions are equally applied to all workers regardless of “race, creed, color or ancestry.”

The non-discrimination clause shines a light on the administration of the CBA that both management and unions have legal obligations not to discriminate.

This arbitrator is reluctant to remove the non-discrimination clause. However, in removing the clause the employee does not lose any right to initiate legal recourse should the city engage in unlawful discrimination. There are many forums to assert a claim that was expressly designed to hear such claim: state and federal courts; state and federal agencies such as EEOC or the Department of Human Rights. The Arbitrator reviewed the internal comparables also noted that the IBEW, Administrative Support Unit has no comparable discrimination language in its recently approved contract without the discrimination clause.

ISSUES IN DISPUTE

#2 JUNETEENTH

Article 9, Sections 1 & 3 – Holidays; Juneteenth

City Position: Juneteenth should be exchanged for one existing floating holiday.

Union Position: Juneteenth should be added without reduction to the floating holidays.

DECISION: Union Position: Juneteenth should be added without reduction to the floating holidays.

Rationale

Juneteenth was recently declared a State Holiday in 2023. Per statute “No public business shall be transacted on any holiday, except in cases of public business transacted by the legislature, nor shall any civil process be served thereon.” Minn. Stat. §645.44, subd. 5 (2023).

Floating Holidays are traditionally focused on the ability of the employee to designate his or her time for rest coupled with the ability to address issues that may arise on a personal level.

Article 9, Section 3 states:

“Floating Holidays: Floating Holidays shall be arranged *by the employee* (emphasis added) with the department head. Such request for a floating Holiday shall not be denied unless it interferes with the operation of the department.”

William Keyes, Union business manager, testified that the bargaining unit members are not interested in forfeiting a floating Holiday in exchange for a Holiday they didn’t ask for. The issue is how to implement the legislative mandate. The legislative mandate of the public Holiday does not include that it be paid.

The Union does not want to lose its 2 floating Holidays and would like to get paid for Juneteenth. The City does not want to pay the Bargaining Unit for a paid Juneteenth. City Exhibit 11 addresses a possible solution with heavy consideration of not losing one of the two floating Holidays:

1. Hydro Plant: 2 Floating Holidays – No Juneteenth
2. Police Officers: 2 Floating Holidays – No Juneteenth
3. Police Supervisor: 2 Floating Holidays – No Juneteenth
4. Public Works – Parks: 2 Floating Holidays – Juneteenth is a Holiday Unpaid
5. Public Works – Streets: 2 Floating Holidays – Juneteenth is a Holiday Unpaid
6. Non-Union – 1 Floating Holiday – Juneteenth is a paid Holiday

It is noted IBEW Administrative Support agreed to one floating Holiday and Juneteenth as a paid Holiday. Also the Union in its Brief states that the City gave BPU employees Juneteenth as a paid Holiday without any reduction in floating Holidays for 2023 (City Exhibit 1, Memorandum of Agreement (MOA) on Final Page).

The Union and City External comparables show no evidence in the records received that Juneteenth as a paid Holiday in addition to two (2) Floating Holidays. (Union Exhibit 28)

The Union states that some of the externals labor contracts were entered into prior to the legislative change to add Juneteenth as a public holiday in 2023 and this may result in change in new agreements.

One external comparable was referred to in the Union brief that a tentative agreement by the IBEW Local 949 and the New Ulm Public Utilities Commission added Juneteenth as a paid Holiday and retains two (2) floating Holidays from the prior contract. (Union Exhibits 60 (page 12); 61 (page 2))

The jurisdiction of the Arbitrator is limited to the items of dispute certified to and submitted to the Commissioner of the BMS Minn Stat § 179A.16 subd 5. Two important bases for a decision in interest arbitration are (1) determining what the parties would likely have negotiated had they been able to reach agreement at the bargaining table and (2) seeking to avoid awards that significantly alter a bargaining units relative standing, whether internal or external, unless there are compelling reasons to do so.

ISSUES IN DISPUTE

#3 WAGES AND WAGE GRID IMPLEMENTATION

Article 12, Section 1 and Appendix A – Wages; Wage Grid Implementation

City Position: There should only be one wage grid for all City positions, which is the new grid developed in conjunction with the 2023 Flaherty & Hood Classification and Compensation Study (“F&H Grid”).

Union Position: City employees in the Public Utilities Department should have a separate wage grid from all other City employees.

DECISION: City Position: There should only be one wage grid for all City positions, which is the new grid developed in conjunction with the 2023 Flaherty & Hood Classification and Compensation Study (“F&H Grid”)

Rationale

By way of background, the City conducted a Classification Plan and Pay Equity Study using David Drown and Associates (DDA) in 2018.

The review included job descriptions and BPU Commission approved the revisions on February 27, 2018. (Union Exhibit 7 Council approval)

The DDA study resulted in a multi-step wage grid that applied to all city employees. The BPU commission did not agree to the studies used by the DDA and as a result chose its own benchmarked utilities.

Also, William Keyes, Union Business Manager, testified the City proposed moving the BPU employees to the new DDA grid in 2019 and the other Bargaining Units had moved to the new wage grid. But the BPU did not because they had concerns about moving into a multi-step performance-based grid. (Union Brief page 8)

According to the Union, that the CBA in effect from January 1, 2019-December 31, 2020, the BPU employees were paid on an hourly wage plus longevity getting paid an hourly stipend for license pay. (Union Exhibit 2, page 12-13)

The DDA study resulted in the creation of a new wage grid which was implemented for most of the city employees with the exception of the BPU Bargaining Union.

The City proposed the DDA wage grid in negotiations for the current 2021-2023 CBA. The BPU chose to adopt the wage grid however, it was not fully implemented for the BPU employees because the BPU Commission chose to increase some of the pay range on the DDA grid.

The current CBA was finalized on March 15, 2021. (City Exhibit 1, Page 17)

The City chose to remove the BPU Commission control over BPU employees terms and conditions of employment, including compensation. As a result, that control was given to the City Council by Charter Amendment. (City Exhibit 14-16). The Charter Amendment was to designate the control over compensation to one body: the City Council.

The negotiations for the 2021-2023 CBA resulted in the position of the BPU creating a separate wage grid that had allowed higher compensation for different positions for some of its members, which occurred prior to the Charter Amendment. The Charter Amendment eliminated control of demanding a separate wage grid in negotiations, since control was in the City Council.

The City, through competitive proposals retained Flaherty and Hood PA (F&H) to conduct a city-wide job classification and compensation study that was finished in 2023. (City Exhibit 17). It is noted this Arbitrator never saw the DDA prior compensation study. DDA did not respond to the request for proposals.

In reviewing City Exhibit 17, it appears that the report was comprehensive and data-driven. Note there was no objection to the report at the hearing since it was a stipulated exhibit.

The City, in its Brief, listed pertinent areas of the report:

1. External comparison groups consisted of 14 cities based on a cluster analysis and 2 zones (City Exhibit 17 Page 9-12)
2. F&H explain in the report cluster analysis is a tool to combine cities into various subgroups based upon various factors until clusters were found
3. The cities identified in the cluster analysis were Bemidji, Cloquet, Fergus Falls, Grand Rapids, Hibbing, and Hutchinson all within the City of Brainerd cluster
4. Z-score, which are established during cluster analysis: "It is possible to identify cities that are more similar"
5. This allowed F&H too include North Branch as a comparable based upon the Z-score
6. There were additional external marked data regarding other cities (Alexandria, North Branch, Marshall, New Ulm, Baxter, and Willmar, Crow Wing County, and other Utility Providences, Private and Public sector comparatives)
7. As part of the study, city employees completed Job Analysis Questionnaires (JAQs) which were reviewed by Relative Department Heads and Human Resources to ensure that the job duties in the position description accurately reflect the nature of the work performed being submitted to F&H for purposes of market comparison analysis. (Union Exhibit 12) (Schubert Test). The City also conducted Job Evaluation interviews of the employees.

City's Local Government Pay Equity

State Statute requires cities to establish "equitable compensation relationships between female-dominated, male-dominated and balanced classes of employees in order to determine, balanced sex-based wage disparities." Minn Statute § 471.992 Subd. 4 and 477.994.

The F&H Study forms the basis for the City's Local Government Pay Equity Job Analysis.

The City's proposed wage grid is based on the F&H Study that encompassed all positions within the departments of the City in a single job-evaluation system.

The study includes positions within the Public Utilities Department. The study, classification and compensation indicates, according to the report, that many positions in the

Bargaining Unit are ahead of their predicted pay in relation to internal and external market comparisons.

Pay Equity Report Failure of 2023

The Union makes an interesting point about reporting in prior years. Kris Schubert, HR Director, has worked in HR since 2007, and has been responsible for preparing and submitting the City's Pay Equity Report. The City never failed the Pay Equity prior to 2023 because she would make adjustments before submitting to the State, to assure the Pay Equity would be in compliance. The BPU employees were always a part of the reporting.

Schubert, in the 2023 Pay Equity Report for 2022 wages, did not make adjustments, and the report failed. The summary of the issue on pay equity is Union Exhibit 13, (Report to City Council).

The City made necessary steps to attain compliance, in the 2023 report. One of the steps to ensure pay equity was to implement the F&H pay grid. The Union believes compliance can be achieved with its wage proposal for bargaining unit employees by making adjustments.

The City submitted its updated pay equity report with pay adjustments recommended by F&H for non-union female employees. At the time of the City submission of its updated report to the State on Jan 26, 2024, no City of Brainerd employees were on the F&H wage grid. Note that the City received Notice of Compliance April 16, 2024.

The core or central issue is whether the City should use the F&H wage grid or adopt the Union position of having a separate grid for employees in the BPU.

The record is clear that F&H developed a wage grid in line with its comprehensive and data-driven classification and compensation study. That prior to the F&H study the BPU

modified the DDA wage grid by recommending different salaries for members in its Union. That resulted in a Charter Amendment to remove control of wages of the BPU Commission.

The Union's position has not changed since the previous DDA study - separate wage grid for its members.

Implementation of the F&H Grid is Supported by All Relevant Interest Arbitration

Factors

The core issue in this arbitration is whether the employees represented by the Union should be on the same salary grid as all the other City employees who have settled all their contracts with the City. The City salary grid was developed after a recent, comprehensive and data-driven classification and compensation study by an independent consulting firm. The Union's position to maintain a different wage grid for its members, despite the F&H recent study, has not changed since the previous DDA compensation study.

"The jurisdiction of the arbitrator is limited to the items of dispute certified to and submitted by the Commissioner of the BMS. Minn. Stat. § 179A.16, subd. 5. Two important bases for a decision in interest arbitration are: (1) determining what the parties would likely have negotiated had they been able to reach agreement at the bargaining table; and (2) seeking to avoid awards that significantly alter a bargaining unit's relative standing, whether internal or external, unless there are compelling reasons to do so. There are well-established factors that Minnesota arbitrators apply in interest arbitrations. These factors are: 1) the employer's ability to pay; 2) internal equity; 3) external or market comparisons; and 4) other economic factors. *City of Mounds View and LELS, Local No. 204*, BMS Case No. 10-PN-0957 (Miller, 2010), pp. 10-11." City Brief page 11

"Internal equity consists of two components: 1) consideration of pay equity, and 2) consideration of an internal pattern among employee groups, if one exists. Since the enactment of the Minnesota Pay Equity Act ("Pay Equity Act"), Minn. Stat. §§ 471.922 *et seq.*, arbitrators now place the greatest weight on internal consistency in wage patterns, rather than external market factors. *Minnesota Public Employee's Association and Faribault County*, BMS Case No. 13-PN-0350 (Kirchner, 2013), p. 8; *Hennepin County Deputy Sheriff's Association*, BMS Case No. 10-PN-0776 (Jacobs, 2010). As noted above, interest arbitrators "shall consider the statutory rights and obligations of public employers," which includes the City's statutory obligations under the Pay Equity Act. Minn. Stat. § 179A.16, subd. 7. In fact, the Pay Equity Act expressly establishes the standards that arbitrators must use when resolving wage and salary issues:

In all interest arbitration involving a class other than a balanced class held under sections 179A.01 to 179A.25, the arbitrator *shall consider the equitable compensation relationship standards* established in this section and the standards established under section 471.993, together with other standards appropriate to interest arbitration. The arbitrator shall consider both the results of a job evaluation study and any employee objections to the study. (City Brief pages 12-13)

Minn. Stat. § 471.992, subd. 2 (emphasis added). There is no dispute that the bargaining unit at issue here contains numerous male-dominated classes of employees for purposes of the Pay Equity Act.” City Brief pages 12-13

The Union states that “...the F&H report does not provide clear and compelling evidence of a need to move to a new wage grid with significant changes to the pay ranges based on external comparables.” (Union Brief page 14) The new grid will put the BPU employees according to the Union out of parity with the external market.

The Union states the primary consideration in this arbitration are external comparables and internal comparison/pay equity.

The F&H report was admitted as City Exhibit by stipulation. The Union had the following problems with the study:

1. The Union asserts now that ‘...the City did not have anyone from F&H testify as to the contents or findings of that report. It was not possible to cross-examine the preparer of the report to ask questions regarding the basis for their conclusions and the reasoning behind their proposed pay ranges.’ (Union Brief page 17) The report was entered into the record without objection from the Union.
2. The report does note that F&H surveyed 78 positions but only obtained comparable data for 58 positions. (Union Brief page 16)
3. We (Union) do not get to ‘look behind the curtain and see how F&H supports the data in the report. A report which does not, in fact, prepare to bring wages in line with the external market.’ (Union Brief page 17)
4. The City did not submit the full F&H report as evidence in support of its position in the wage grid. (Union Brief page 17)

The Union’s position is that the grid needs to balance both external and internal concerns.

The Union stands on the proposition “... while internal comparison/pay equity is a factor, external comparison is an equally important factor to consider.” (Union brief page 18).

Arbitrator William Berquist analysis of what an Arbitrator should consider as a primary factor in interest arbitrations observed:

“Initially, arbitrators as to public interest arbitration of essential employees such as the public service employees involved here, used external comparisons as their primary pricing standard for wages. Then when the Minnesota Pay Equity Act came into existence and became predominant, internal consistencies became one of the main primary important considerations. The experience since has been for arbitrators to give added weight and priority to internal comparables as to wages unless the proper external comparables demonstrate that the counties’ public services employees... are substantially underpaid as compared to proper external comparables.” *LELS v. Chisago County* BMS Case No. 95-PN-54, 11-12 (1995) (Berquist, Arb).

Other arbitrators have agreed.

“Arbitrators who utilize this approach reconcile the competing demands of pay equity and the marketplace by giving initial deference to a public employer’s internal comparison evidence, which includes pay equity. They then issue awards largely consistent with those considerations, unless doing so would result in wages ‘substantially’ below the marketplace.” (Ver Ploeg, Christine D. (2000) *Pay Equity in Interest Arbitration*, p 829)

“The Pay Equity Act requires that primary consideration be given to relative job rank. Thus, an arbitrator must look first to internal wage comparisons.” (*Houston County v LELS*, BMS Case No. 98-PN-1379, 4 (1998) (Lundberg, Arb).

“Arbitrators have not ignored the fact that non-compliance can and does result in substantial financial penalties. Echoing Arbitrator Nancy Power’s concern in *LELS v City of Mound* (BMS Case No. 94-PN-1419, 10 (1995) Powers, Arb) that “[t]he Department of Employee Relations has begun enforcing the Act by imposing penalties and fines, which makes non-compliance more serious and costly than it has in the past.” (Ver Ploeg, Christine D. (2000) *Pay Equity in Interest Arbitration*, p 833).

The Pay Equity Act mandates compliance, and the City position aligns with that Legal requirement. At the hearing, City Human Resources Director, Kris Schubert, testified that she runs the pay equity testing pursuant to the State’s testing system for both the City’s final position and the Union’s final position. (Schubert Test). The equity testing showed that the Union failed pay equity testing under its final position for 2024 wages. The City passed the pay equity testing under the City’s final position for 2024 wages, which includes Transitional Pay to the nine (9) bargaining unit members that are ahead of predicted pay. (City Exhibit 35 and 36).

In AFSCME Council 65 and City of Paynesville, 08-PN-0145 (Jacobs, 2008) Arbitrator

Jacobs stated:

“The statutes are clear and prevent an award from being implemented if it results in non-compliance with the Local Government Pay Equity Act. The arbitrator simply cannot award something that would take the City out of compliance even if such compliance can be rectified later.”

This statement does not support the Union’s argument that the City could easily rectify the non-compliance by paying female-dominated classes a higher wage.

The Union’s entire position cannot be adopted because the evidence presented by the Union proposal would take the City out of Pay Equity compliance.

Compliance with Pay Equity is a clear and substantial reason to change to the City’s new pay grid.

Arbitrator Gordon in *LELS Inc. v Benton County* (Case No. 14-PN-0711) addressed the issue if one proposal ran afoul of the Pay Equity Act an interest arbitration cannot result in an award that is in violation of the Law. Specifically, in the award he stated:

“The Union points out that the Pay Equity Act is only one of the factors to be considered in the award. This is true. If both Parties’ proposals were in compliance with the Pay Equity Act then other factors would by necessity have to be determined. But here the Union’s proposal is out of compliance. There is also a very strong internal settlement pattern favoring the County.”

This arbitrator understands the Union’s position that Minnesota Law requires any award to consider the provisions of the Pay Equity Act, together with other standards appropriate to interest arbitration. Minn Stat §471.992 subd 2

The Union states the F&H report does not support the F&H wage grid when looking at external comparables, “...as a result the F&H report is of little value and should not be relied upon the external comparables.” (Union Brief page 18)

The arbitrator reviewed the Union’s position on external comparables and gave it the appropriate weight.

The F&H study adequately represented the City's position on external comparables. The F&H study was conducted by a professional classification and compensation consultant, selected through an open and competitive proposal process. The F&H study was based on a process that involved more than comparing job titles. The study involved reviewing job descriptions, the use of JAQ's (Job Analysis Questionnaire) to verify the job descriptions that would reflect the duties actually performed by each position and it included an employee interview and an appeal process if the employee disagreed with the job description.

The Union relied on Union representative Eric Berube regarding external wage comparisons. Mr. Berube testified honestly and well. Mr. Berube testified that he reviewed wage information from external comparison groups and compared it to both the current DDA Grid as well as the City's proposed F&H Grid. (Testimony of Eric Berube, Union Exhibit 29, 30, 31). This arbitrator did not review the DDA grid since it was not introduced as an exhibit.

Mr. Berube was very credible in admitting that he lacked any sort of education or training with respect to conducting classification and compensation studies. It is noted he had worked for the Union as a business representative since April 6, 2024.

Mr. Berube testified that the basis of analysis was of requesting wage information from the external comparison groups and their positions in those external entities with similar job titles to those in present in the Bargaining Unit represented by the Union. The weakness in his analysis was that he did not review or analyze the actual job positions by the claimed comparable positions and the extent of his analysis consisted of just looking at the pay rates for positions in different entities with similar titles.

The problem with selecting job titles was that he provided no testimony regarding how and why he believes those positions are comparable. (Berube Test Union Exhibit 29, 30, 31).

Mr. Berube, as an example, compared the position of Electrical Line Crew to the positions of General Line Worker and General Foreman. The weakness in his testimony was lack of information supporting the inference that these positions involve similar job duties or levels of responsibility. (Comparing City Exhibit 17 to Union Exhibit 29, 30, 31).

The analysis of comparables should include more than job titles but an analysis of whether there are like or similar duties, similar responsibilities and basic requirements to be able to work within that position.

The external wage comparison by the Union was given the appropriate weight. Mr. Berube's testimony failed to provide a foundation that the wages in the F&H Grid are below the external market to such an extent as would justify keeping this Bargaining Unit on a separate wage scale different from other City employees that have reached settlement.

ISSUES IN DISPUTE

#4 Article 12, Section 1 and Appendix A – Wages; 2024 Wage Adjustments

City Position:	1/1/2024:	2.5% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2024:	2.25% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2024:	4% increase to old wage grid

#5 Article 12, Section 1 and Appendix A – Wages; 2025 Wage Adjustments

City Position:	1/1/2025:	3.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2025:	2.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2025:	3.75% increase to old wage grid

#6 Article 12, Section 1 and Appendix A – Wages; 2026 Wage Adjustments

City Position:	1/1/2026:	3% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
Union Position:	1/1/2026:	3% increase to old wage grid

DECISION: #4 Article 12, Section 1 and Appendix A – Wages; 2024 Wage Adjustments

City Position:	1/1/2024:	2.5% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2024:	2.25% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid

DECISION: #5 Article 12, Section 1 and Appendix A – Wages; 2025 Wage Adjustments

City Position:	1/1/2025:	3.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
	7/1/2025:	2.75% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid

DECISION: #6 Article 12, Section 1 and Appendix A – Wages; 2026 Wage Adjustments

City Position:	1/1/2026:	3% Increase to F&H Grid with Transitional Pay plus 25% as needed to transition employees to F&H Grid
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Rationale

HOW DOES THE CITY'S IMPLEMENTATION OF THE F&H GRID IMPACT THE MEMBERS?

The City's Brief (pages 14-17) clearly explains the implementation of the F&H Grid. It is as follows:

"...Rather, the F&H Study shows that numerous positions within the bargaining unit are currently ahead of predicted pay within the market. In order to address this situation, the City's proposed implementation methodology ensures that all bargaining unit employees receive compensation that is at least equal to the across-the-board-increase (ABI) percentages applied to the F&H Grid during each year of the contract, even if they are currently ahead of predicted pay. See City Ex. 23.

Specifically, the City's proposed implementation of the F&H Grid is as follows: All bargaining unit employees shall be placed on the step on the F&H Grid that is closest to their current 12/31/2023 wage that either: a) constitutes an increase; or b) does not place them on Step 7 or Step 8, which are merit-based steps, unless they were already on these steps. *Id.* In the event an employee's 12/31/31 wage is higher than the appropriate step on the F&H Grid—because they are currently ahead of predicted pay as determined by an expert conducting a comprehensive classification and compensation study—they shall continue to be paid:

- a) An hourly rate that represents *the higher of*:
 - 1) their 12/31/2023 wage; or
 - 2) the step on the F&H Grid that is closest to their 12/31/2023 wage; plus
- b) Transitional Pay payments equal to the amount of the ABI percentages applied to the scale during the term of the contract, plus 25%.

The record shows that the City's proposal treats these employees in a very equitable manner, ensuring they receive the compensation needed to transition them onto the F&H Grid over time, plus additional compensation that *exceeds* the ABI percentages applied to the F&H Grid.

The City submitted illustrative exhibits demonstrating the implementation of its proposal for each bargaining unit employee, whether they will require Transitional Pay or not. *See City Exs. 25 & 26.* For example, employee Jason Eastman's 12/31/2023 hourly wage was \$37.35. His step placement on the F&H Grid has an hourly wage of \$40.07, which is 7.28% higher than his 12/31/2023 wage. Similarly, employee Brent Yaunick's 12/31/2023 hourly wage was \$51.53. His step placement on the F&H Grid has an hourly wage of \$56.79, which is 10.21% higher than his 12/31/2023 wage. Of the thirteen (13) bargaining unit employees who do not require Transitional Pay to move onto the F&H Grid, each employee will receive an increase to their 12/31/2023 wage of 4.48% at the lowest, and 11.85% at the highest, as of 1/1/2024. These employees will then receive numerous general wage increases over the course of the contract term."

The City's Proposal is also fair to those employees who are currently ahead of predicted pay, as each employee will be made more than whole through the payment of Transitional Pay as needed to transition them onto the F&H Grid. It must be noted that only nine (9) of the bargaining unit's thirty-seven (37) current members will require Transitional Pay, and three (3) of those nine (9) employees will be fully transitioned onto the F&H Grid by the end of the contract (Samuel Arnzen, Laura Jewell, and Kara Karnowski). *See City Exs. 27 & 28.*

In addition, each of these employees will receive Transitional Pay payments that exceed the ABI percentages applied to the F&H Grid under the City's Proposal. For example, employee Samuel Arnzen will receive Transitional Pay payments totaling \$4,369.30 in 2024, and totaling \$2,943.40 in 2025, and will be fully transitioned onto the F&H Grid effective July 1, 2025. Employees Daniel Doucette, Andrew Moody, and Jesse Simonson each hold the same position, which has been determined to currently be significantly ahead of predicted pay. In order to ensure these employees continue to receive equitable compensation as they transition onto the F&H Grid, the City's offer includes Transitional Pay payments totaling \$3,520.40 in 2024, totaling \$4,977.70 in 2025, and totaling \$2,914.60 in 2026. While it will take time for the predicted pay for some positions within the bargaining unit to catch up with current pay, each employee holding any such position will continue to receive Transitional Pay payments as they are transitioned onto the F&H Grid..."

THE CITY WAGE PROPOSALS FOR EACH YEAR OF THE CONTRACT ARE SUPPORTED BY ALL RELEVANT INTEREST ARBITRATION FUNCTIONS

The Union's stance is that the Bargaining Unit remain on a wage scale that differs from other City employees.

The Union proposes a 4% wage increase in 2024,
3.75% wage increase for 2025
3% wage increase for 2026

The first consideration is that the Union's wage proposals result in the City being non-compliant with the Pay Equity Act.

The Union's wage demands would fly in the rationale of the Pay Equity Act. It would undermine and subvert by disrupting the City's internal compensation relationships. All present units by record shows that all units that have settled with the City have agreed to implement the same salary schedules and have further agreed to a fully consistent pattern of wage settlements. (City Exhibit 29)

The Union's proposal is to remain on a different wage grid and continue to receive different wage grids to all other City employees.

The F&H Grid establishes a uniform wage adjustment patterns that continues to operate as it was designed for bargaining units through 2026. The Union proposal would sink the internal pattern and impact pay equity compliance.

INTERNAL BARGAINING PATTERN SUPPORTS THE CITY'S POSITION

Internal settlement and internal equity are important because they promote fairness among the same public sector.

Internal Equity supports the City's wage proposal.

There are eight (8) separate bargaining units within the City, including this Unit. (City Exhibit 5).

One bargaining unit of four (4) employees has not negotiated its initial contract since it has just been certified.

Of the remaining six (6) bargaining units the City has reached settlements with four (4) through 2026 or later, including the Administrative Support Unit, which is represented by IBEW. The other bargaining units that have not settled contain only ten (10) of the one hundred fourteen (114) city employees.

The four (4) units that have settled with the City to date have agreed to transition to the F&H Grid from 2024 forward. It is noted that it includes the Essential Police Officer Unit. (City Exhibit 22). Also, all non-union personnel within the City are now on the F&H Grid from 2024 forward.

The position of internal equity with respect to the implementation of the F&H Grid, as the grid is based upon a recent classification and compensation study that was conducted across the entirety of the City and is *designed to comply with the Pay Equity Act*. (emphasis added)

EXTERNAL COMPARISONS SUPPORT THE CITY'S WAGE PROPOSAL

The external comparisons are given less weight than internal equity consideration. The City data regarding the external comparison groups shows the City's proposed wage adjustments to be well within the range of external comparison group over the course of the contract, even given the limited external settlement date for 2026. (City Exhibit 30)

There was no compelling evidence that the Bargaining Unit is under paid, as compared to external market. As a result, the pay equity consideration and the internal pattern, are primary as part of the arbitrator's review.

Patrick J Kelly

Patrick J Kelly

February 27, 2025

Date

RESOLUTION

No. :25

BE IT RESOLVED by the Council of the City of Brainerd to set the hourly wages for City employees who are members of the International Brotherhood of Electrical Workers, Local No. 31 (Brainerd Public Utilities) Union as provided in its 2024-2026 Union Contract as described below.

Below is the 2024-2026 eight step wage grid reference above, and incorporated into Article 12, Section 1, as approved by the Council:

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
Accounts Receivable Rep; Business Office Support Specialist; Cashier/Postal Specialist; Materials Control								
1/1/2024	23.05	23.93	24.81	25.69	26.57	27.45	29.64	30.74
7/1/2024	23.57	24.47	25.37	26.27	27.17	28.07	30.31	31.43
1/1/2025	24.45	25.39	26.32	27.26	28.19	29.12	31.45	32.61
7/1/2025	25.12	26.09	27.04	28.01	28.97	29.92	32.31	33.51
1/1/2026	25.87	26.87	27.85	28.85	29.84	30.82	33.28	34.52
Facilities Custodian; Laborer								
1/1/2024	23.86	24.77	25.68	26.59	27.50	28.41	30.68	31.81
7/1/2024	24.40	25.33	26.26	27.19	28.12	29.05	31.37	32.53
1/1/2025	25.32	26.28	27.24	28.21	29.17	30.14	32.55	33.75
7/1/2025	26.02	27.00	27.99	28.99	29.97	30.97	33.45	34.68
1/1/2026	26.80	27.81	28.83	29.86	30.87	31.90	34.45	35.72
Administrative Assistant; Facilities & Grounds Maintenance Worker								
1/1/2024	24.70	25.64	26.58	27.52	28.46	29.40	31.75	32.93
7/1/2024	25.26	26.22	27.18	28.14	29.10	30.06	32.46	33.67
1/1/2025	26.21	27.20	28.20	29.20	30.19	31.19	33.68	34.93
7/1/2025	26.93	27.95	28.98	30.00	31.02	32.05	34.61	35.89
1/1/2026	27.74	28.79	29.85	30.90	31.95	33.01	35.65	36.97
Water Service Worker								
1/1/2024	25.56	26.53	27.51	28.48	29.46	30.43	32.86	34.08
7/1/2024	26.14	27.13	28.13	29.12	30.12	31.11	33.60	34.85
1/1/2025	27.12	28.15	29.18	30.21	31.25	32.28	34.86	36.16
7/1/2025	27.87	28.92	29.98	31.04	32.11	33.17	35.82	37.15
1/1/2026	28.71	29.79	30.88	31.97	33.07	34.17	36.89	38.26
Billing Representative; Credit/Collection Representative; Meter Tech/Locator								
1/1/2024	26.46	27.46	28.47	29.48	30.49	31.49	34.01	35.27
7/1/2024	27.06	28.08	29.11	30.14	31.18	32.20	34.78	36.06
1/1/2025	28.07	29.13	30.20	31.27	32.35	33.41	36.08	37.41
7/1/2025	28.84	29.93	31.03	32.13	33.24	34.33	37.07	38.44
1/1/2026	29.71	30.83	31.96	33.09	34.24	35.36	38.18	39.59
Water Plant Operator; Water Plant Relief Operator								
1/1/2024	27.38	28.42	29.47	30.51	31.55	32.60	35.20	36.51
7/1/2024	28.00	29.06	30.13	31.20	32.26	33.33	35.99	37.33
1/1/2025	29.05	30.15	31.26	32.37	33.47	34.58	37.34	38.73
7/1/2025	29.85	30.98	32.12	33.26	34.39	35.53	38.37	39.80
1/1/2026	30.75	31.91	33.08	34.26	35.42	36.60	39.52	40.99

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
Payables/Payroll Specialist								
1/1/2024	28.34	29.42	30.50	31.58	32.66	33.74	36.44	37.79
7/1/2024	28.98	30.08	31.19	32.29	33.39	34.50	37.26	38.64
1/1/2025	30.07	31.21	32.36	33.50	34.64	35.79	38.66	40.09
7/1/2025	30.90	32.07	33.25	34.42	35.59	36.77	39.72	41.19
1/1/2026	31.83	33.03	34.25	35.45	36.66	37.87	40.91	42.43
Wastewater Operator								
1/1/2024	30.36	31.51	32.67	33.83	34.98	36.14	39.03	40.48
7/1/2024	31.04	32.22	33.41	34.59	35.77	36.95	39.91	41.39
1/1/2025	32.20	33.43	34.66	35.89	37.11	38.34	41.41	42.94
7/1/2025	33.09	34.35	35.61	36.88	38.13	39.39	42.55	44.12
1/1/2026	34.08	35.38	36.68	37.99	39.27	40.57	43.83	45.44
Water Crew Chief								
1/1/2024	31.42	32.62	33.81	35.01	36.21	37.41	40.40	41.89
7/1/2024	32.13	33.35	34.57	35.80	37.02	38.25	41.31	42.83
1/1/2025	33.33	34.60	35.87	37.14	38.41	39.68	42.86	44.44
7/1/2025	34.25	35.55	36.86	38.16	39.47	40.77	44.04	45.66
1/1/2026	35.28	36.62	37.97	39.30	40.65	41.99	45.36	47.03
Meter Serviceworker								
1/1/2024	32.52	33.76	35.00	36.24	37.48	38.71	41.81	43.36
7/1/2024	33.25	34.52	35.79	37.06	38.32	39.58	42.75	44.34
1/1/2025	34.50	35.81	37.13	38.45	39.76	41.06	44.35	46.00
7/1/2025	35.45	36.79	38.15	39.51	40.85	42.19	45.57	47.27
1/1/2026	36.51	37.89	39.29	40.70	42.08	43.46	46.94	48.69
Maintenance Mechanic								
1/1/2024	33.66	34.94	36.22	37.51	38.79	40.07	43.28	44.88
7/1/2024	34.42	35.73	37.03	38.35	39.66	40.97	44.25	45.89
1/1/2025	35.71	37.07	38.42	39.79	41.15	42.51	45.91	47.61
7/1/2025	36.69	38.09	39.48	40.88	42.28	43.68	47.17	48.92
1/1/2026	37.79	39.23	40.66	42.11	43.55	44.99	48.59	50.39
IT/Data Analyst								
1/1/2024	34.84	36.16	37.49	38.82	40.14	41.47	44.79	46.45
7/1/2024	35.62	36.97	38.33	39.69	41.04	42.40	45.80	47.50
1/1/2025	36.96	38.36	39.77	41.18	42.58	43.99	47.52	49.28
7/1/2025	37.98	39.41	40.86	42.31	43.75	45.20	48.83	50.64
1/1/2026	39.12	40.59	42.09	43.58	45.06	46.56	50.29	52.16
Accountant I; Journeyman Electrician; Utilities Senior Engineering Tech/Project Manager								
1/1/2024	36.06	37.43	38.80	40.18	41.55	42.92	46.36	48.07
7/1/2024	36.87	38.27	39.67	41.08	42.48	43.89	47.40	49.15
1/1/2025	38.25	39.71	41.16	42.62	44.07	45.54	49.18	50.99
7/1/2025	39.30	40.80	42.29	43.79	45.28	46.79	50.53	52.39
1/1/2026	40.48	42.02	43.56	45.10	46.64	48.19	52.05	53.96
Water Plant Chief Operator								
1/1/2024	37.32	38.74	40.16	41.58	43.00	44.43	47.98	49.76
7/1/2024	38.16	39.61	41.06	42.52	43.97	45.43	49.06	50.88
1/1/2025	39.59	41.10	42.60	44.11	45.62	47.13	50.90	52.79
7/1/2025	40.68	42.23	43.77	45.32	46.87	48.43	52.30	54.24
1/1/2026	41.90	43.50	45.08	46.68	48.28	49.88	53.87	55.87

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
Wastewater Crew Chief								
1/1/2024	38.62	40.10	41.57	43.04	44.51	45.98	49.66	51.50
7/1/2024	39.49	41.00	42.51	44.01	45.51	47.01	50.78	52.66
1/1/2025	40.97	42.54	44.10	45.66	47.22	48.77	52.68	54.63
7/1/2025	42.10	43.71	45.31	46.92	48.52	50.11	54.13	56.13
1/1/2026	43.36	45.02	46.67	48.33	49.98	51.61	55.75	57.81
Journeyman Lineworker								
1/1/2024	41.14	42.71	44.28	45.85	47.42	48.98	52.90	54.86
7/1/2024	42.07	43.67	45.28	46.88	48.49	50.08	54.09	56.09
1/1/2025	43.65	45.31	46.98	48.64	50.31	51.96	56.12	58.19
7/1/2025	44.85	46.56	48.27	49.98	51.69	53.39	57.66	59.79
1/1/2026	46.20	47.96	49.72	51.48	53.24	54.99	59.39	61.58
Maintenance Electrician								
1/1/2024	44.17	45.85	47.54	49.22	50.90	52.58	56.79	58.90
7/1/2024	45.16	46.88	48.61	50.33	52.05	53.76	58.07	60.23
1/1/2025	46.85	48.64	50.43	52.22	54.00	55.78	60.25	62.49
7/1/2025	48.14	49.98	51.82	53.66	55.49	57.31	61.91	64.21
1/1/2026	49.58	51.48	53.37	55.27	57.15	59.03	63.77	66.14
Electric Line Crew Chief								
1/1/2024	44.80	46.51	48.22	49.93	51.63	53.34	57.61	59.74
7/1/2024	45.81	47.56	49.30	51.05	52.79	54.54	58.91	61.08
1/1/2025	47.53	49.34	51.15	52.96	54.77	56.59	61.12	63.37
7/1/2025	48.84	50.70	52.56	54.42	56.28	58.15	62.80	65.11
1/1/2026	50.31	52.22	54.14	56.05	57.97	59.89	64.68	67.06

Below is the 2024 – 2026 base hourly wages referenced above, and incorporated in Article 12, Section 2, as approved by the Council:

	<u>1/1/2024</u>	<u>1/1/2025</u>	<u>7/1/2025</u>	<u>1/1/2026</u>
Electric Line Crew Chief	52.50	54.47	55.01	56.66
Lineworker	49.29	51.14	51.65	53.20
Maintenance Electrician	50.69	52.59	53.12	54.71
Meter Department Crew Chief	46.82	48.58	49.07	50.54
Meter Tech/Locator	37.95	39.37	39.76	40.95
Meter Serviceworker	41.15	42.69	43.12	44.41
Water Plant Chief Operator	40.28	41.79	42.21	43.48
Water Plant Operator	34.53	35.82	36.18	37.27
Water Plant Relief Operator	29.49	30.60	30.91	31.84
Wastewater Crew Chief	39.42	40.90	41.31	42.55
Wastewater Operator	36.17	37.53	37.91	39.05
Water Crew Chief	42.47	44.06	44.50	45.84
Water Foreman	39.44	40.92	41.33	42.57
Water Serviceworker	36.17	37.53	37.91	39.05
Maintenance Mechanic	36.14	37.50	37.88	39.02
Meter Reader	29.32	30.42	30.72	31.64
Custodian/Groundskeeper/Store Clerk	29.40	30.50	30.81	31.73

	<u>1/1/2024</u>	<u>1/1/2025</u>	<u>7/1/2025</u>	<u>1/1/2026</u>
Laborer	24.83	25.76	26.02	26.80
Accounts Receivable Representative	30.32	31.46	31.77	32.72
Cashier/Postal Specialist	30.32	31.46	31.77	32.72
Administrative Assistant	32.43	33.65	33.99	35.01
Billing Representative	31.94	33.14	33.47	34.47
Credit/Collection Representative	31.88	33.08	33.41	34.41
Payables/Payroll Specialist	33.50	34.76	35.11	36.16
Materials Control	33.65	34.91	35.26	36.32
Accountant I	34.61	35.91	36.27	37.36
Engineering Technican	32.76	33.99	34.33	35.36
Locator/Laborer	28.53	29.60	29.90	30.80
Lab Tech	34.62	35.92	36.28	37.37
Utilities Senior Engineering Tech/Project Mgr.	43.98	45.63	46.09	47.47
Facility and Grounds Maintenance Worker	32.09	33.29	33.62	34.63
IT Data Analyst	34.31	35.60	35.96	37.04

Adopted this ____ day of March, 2025.

MIKE O'DAY
President of the Council

Approved this _____ day of March, 2025.

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Consider Crow Wing County Historical Society Donation Request

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER: Connie Hillman, Finance Director

ESTIMATED TIME (MIN): 5 Minutes

SUMMARY OF ISSUE:

Please see the attached letter from the Crow Wing County Historical Society requesting a donation and additional information about the Historical Society. Donations by a city are generally prohibited unless the donation is specifically authorized by statute or charter.

Attached is information from the State Auditor's Office, the League of MN Cities and the State Revisor, talking about donations by a city to a historical society could be considered a public purpose and an allowable expenditure of the city.

This donation wasn't specifically budgeted, but could be paid out of the Special Projects budget line item (2025 budget is \$28,000) or the general unallocated account. The Special Projects budget line has historically been used for the CWC Historical Society donation, and the 4th of July fireworks contribution. The total spent in 2025 to date is zero dollars.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

An amount for a donation is not specified in the letter from the Historical Society. However, below is a short history of the City's past donations to the Historical Society:

2006 - \$500; 2008 - \$500; 2011 - \$200; 2012 - \$400; 2013 - \$300; 2014 - \$300; 2017 - \$300; 2018 - \$300; 2019 - \$300; 2021 - \$500; 2022 - \$500; 2023 - \$500; 2024 - \$500.

The 2017 - 2024 were all paid out of Special Projects budget line item.

RECOMMENDED ACTION/MOTION:

Authorize a \$500 donation to the Crow Wing County Historical Society to be paid out of the Special Projects budgeted line item.

FINANCIAL IMPACT:

CROW WING COUNTY

HISTORICAL SOCIETY
MUSEUM & LIBRARY - EST. 1927

Email:
history@crowwing.us

Website:
www.crowwinghistory.org

Street Address:
320 Laurel Street
Brainerd, MN 56401

Phone:
(218) 829-3268

March 4, 2025

Nick Broyles, City Administrator
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Dear City of Brainerd:

Supporting history supports our community.

Since 1927, the Crow Wing County Historical Society has been collecting, preserving, and sharing the history of Crow Wing County. Funding from local cities and townships is an important part of our annual budget. Your generous contributions advance our mission and help us connect the people of today with the people of the past.

Local history provides us with a collective community identity and pride. It is incredibly relatable, relevant, and enriching. When you support the Crow Wing County Historical Society, you provide our community with:

- A museum and public trust for our history.
- Locally accessible high-quality cultural activities.
- Fun and educational fieldtrips for schools and community groups.
- Genealogy and research access.
- Proper collections care.
- Free admission for anyone under the age of 18.
- Prosperity and economic growth. Communities with cultural heritage institutions attract talent, increase tourism revenues, and enhance business development.

Please consider a contribution. The Crow Wing County Historical Society is a 501(c)(3) non-profit organization and affiliated with and approved by the Minnesota Historical Society.

Respectfully yours,



Dr. Nicholas P. Bernier
President, Board of Directors



Hillary Swanson
Executive Director

RECEIVED

MAR 06 2025

CITY OF BRAINERD
ADMINISTRATION



Listed on the
National Register
of Historic Places



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA

OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@osa.state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

Statement of Position

Public Expenditures: Donations and Dues

Public entities are often asked to give funds to support various groups and activities. While the causes may be worthwhile, public entities need to be cautious when making any financial commitments involving public funds.

In most circumstances, public entities have no authority to give away public funds as donations. Generally, in order to spend money, a public entity must have authority to do so. Authority for an expenditure may be specifically stated in a statute or charter, or it may be implied as necessary to do what an express power authorizes. In addition, the expenditure must be for a "public purpose."

Gifts/Donations to Private Individuals/Organizations

Following these general principles, donations to people, non-profits, charities, or other groups are not permitted unless they are based upon specific statutory or charter authority. For example, the Minnesota Attorney General's Office has issued opinions finding that cities have no authority to donate city funds to organizations such as the Red Cross or the Boy Scouts.¹ The assumption is that a gift of public funds to an individual or private entity serves a private rather than a public purpose.

Before a public entity makes a contribution, it is important for that entity to determine that it has specific authorization to make the expenditure. Here are some examples of specific, statutorily authorized appropriations:

- **Artistic Organizations.** A county, city or town may appropriate money to support artistic organizations.²
- **Historical Causes.** A town or city may appropriate annually a specified amount to a county historical society so long as the society is affiliated with, and approved by, the Minnesota Historical Society.³ Cities have express authority to commemorate important and outstanding events in city history, and to appropriate money to collect, preserve and distribute its history data for future generations.⁴ The Attorney General's Office recognizes that a city can advance money to a

¹ See, for example, Op. Att'y Gen. 59-A-3 (May 21, 1948).

² Minn. Stat. § 471.941.

³ Minn. Stat. § 138.053.

⁴ Minn. Stat. § 471.93.

Reviewed: December 2014

Revised: April 2014

2007-1017

nonprofit to sponsor a centennial celebration.⁵

- **Prevention of Cruelty to Animals.** A county may appropriate money for maintenance and support of the local society for the prevention of cruelty to animals.⁶
- **Food Shelves.** Cities and counties may donate funds in the form of grants to food shelves providing food to the needy without charge.⁷
- **Senior/Youth Centers.** A county, city or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit senior citizen center or youth center.⁸
- **Public Recreation Programs.** Counties, cities, towns and school districts may spend funds to operate programs of public recreation, recreational facilities, and playgrounds.⁹ These programs may be conducted independently or with any nonprofit organization.
- **Promotion.** A city or urban town may appropriate up to \$50,000 annually to an incorporated development society or organization of this State, for promoting, advertising, improving, or developing the economic and agricultural resources of the city or urban town.¹⁰ A city may appropriate money to advertise the city and its resources and advantages.¹¹ Similarly, a county may appropriate funds to a similar entity for promoting, advertising, improving or developing the economic and agricultural resources of the county.¹² The county statute does not contain an annual spending limit.
- **Employee Recognition.** Towns may spend funds to recognize volunteers, service efforts, and retiring town officers.¹³ Counties and cities may spend funds for preventive health and employee recognition services.¹⁴
- **Community Celebrations.** Towns may spend funds to host or support a community celebration.¹⁵ Cities or towns may spend funds on Memorial Day observances,¹⁶ and may appropriate money for county or district fairs,¹⁷ centennial and historical celebrations.¹⁸ Statutory cities may spend funds to provide free musical entertainment.¹⁹ The authority to purchase fireworks seems to be implied.²⁰

⁵ See Op. Att’y Gen. 59a-3 (Jan. 18, 1968) (citing Minn. Stat. § 471.93).

⁶ Minn. Stat. § 343.11.

⁷ Minn. Stat. § 465.039.

⁸ Minn. Stat. § 471.935.

⁹ See generally, Minn. Stat. §§ 471.15 to .1911. Minn. Stat. Minn. Stat. § 469.189., and 471.16, subd. 1.

¹⁰ Minn. Stat. § 469.191. In addition, Economic Development Authorities (EDAs) have authority to conduct activities advancing the city and its economic development, and to carry out other public relations activities to promote the city and its economic development. See generally, Minn. Stat. §§ 469.090-.1081 and Minn. Stat. § 469.1082 (county EDAs).

¹¹ Minn. Stat. § 375.83.

¹² Minn. Stat. § 469.189.

¹³ Minn. Stat. § 365.10, subd. 12 (but electors must approve).

¹⁴ Minn. Stat. § 15.46.

¹⁵ Minn. Stat. § 365.10, subd. 12 (but electors must approve).

¹⁶ Minn. Stat. § 465.50.

¹⁷ Minn. Stat. § 38.12.

¹⁸ Minn. Stat. § 471.93.

¹⁹ Minn. Stat. § 412.221, subd. 15.

²⁰ Minn. Stat. § 624.22, subd. 1(a) (2) (A municipality may stage a fireworks display after obtaining a permit).

As an alternative to a donation, a public entity may enter into a contract with an organization to accomplish tasks that the entity is authorized to perform by statute or charter. For example, a city could not give money to the Boy Scouts for a recycling program, but the city could enter a contract with the Boy Scouts to do part of its recycling program. The amount of money paid to the Boy Scouts must be related to the value of the services they provide to the city.

Memberships and Dues

There is no general authorization for cities to join “private” organizations; but there may be specific statutory or charter authority to join specific organizations. For example, cities and urban towns in Minnesota may pay dues to become members of the League of Minnesota Cities.²¹

Similarly, cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. These associations must have as their purpose the betterment and improvement of municipal governmental operations.²² This authorization also allows public entities to participate in the meetings and activities of these associations.

A school board may authorize and pay for the membership of the school district or of any district representative designated by the board in those local economic development associations or other community or civic organizations that the board deems appropriate.²³

The Attorney General’s Office has determined that local units of government may *not* pay dues to a local chamber of commerce²⁴. However, because cities and urban towns may appropriate up to \$50,000 to an incorporated development society or organization for promotional activities, a city or urban town could contribute to a local chamber of commerce for one of the purposes authorized by statute, such as promoting the city or urban town.²⁵ Counties have similar authority but do not have the \$50,000 monetary cap.²⁶ The use of public funds would be limited to statutorily authorized activities. As a result, the OSA recommends that counties, cities, and urban towns create and maintain documentation that shows the funds have been given for specific statutory purposes.²⁷

²¹ Minn. Stat. § 465.58.

²² Minn. Stat. § 471.96.

²³ Minn. Stat. § 123B.02, subd. 24.

²⁴ See Attorney General Letter dated June 27, 1997 (attached).

²⁵ Minn. Stat. § 469.191. An EDA has broader authority to join an official, industrial, commercial or trade association, or other organization concerned with one of the EDA’s authorized purposes.

²⁶ Minn. Stat. § 375.83.

²⁷ Documentation includes, but is not limited, to minutes, resolutions and contracts.



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

GOVERNMENT SERVICES SECTION
525 PARK STREET
SUITE 200
ST. PAUL, MN 55103-2106
TELEPHONE: (612) 297-2040

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

June 27, 1997

Hans B. Borstad
Staples City Attorney
208 North Fourth Street
Staples, MN 56479

Re: Staples Chamber of Commerce Membership

Dear Mr. Borstad:

I am in receipt of your letter asking whether the City of Staples is authorized to pay membership dues to the Staples Chamber of Commerce. After reviewing prior opinions of the Attorney General on this issue as well as the relevant Minnesota statutes, it is my opinion that, while the City of Staples would be authorized by statute to appropriate up to \$50,000 annually to the Staples Chamber of Commerce in certain circumstances, the City would not be permitted to contribute this money in the form of membership dues absent specific authority to do so in the City Charter.

It is well settled in this state that a municipal corporation has only such powers as are expressly conferred upon it by statute or its charter, or necessarily implied therefrom. It has no inherent power. Borgelt v. City of Minneapolis, 271 Minn. 249, 135 N.W.2d 438 (1965); see generally 13A Dunnell, Minn. Digest 2d Municipal Corporations § 3.01a (3rd Ed. 1981). This longstanding principle was relied upon by our office in Op. Atty. Gen. 63-b-1, May 11, 1944, which concluded that the City of New Ulm, a home rule charter city, was without authority, under state law or local charter provision, to subscribe and pay for one or more memberships in a civic and commerce association which was a reorganization of a businessmen's association. Similarly, in Op. Atty. Gen. 218r, February 24, 1949 (1950 Attorney General Report No. 103), we concluded that the Village of Buffalo (now a statutory city) could not join or pay dues to a local chamber of commerce since no such power was conferred upon it by statute. In connection with this issue, your letter refers to three statutes as potential sources of authorization to take the action you describe.

Minn. Stat. § 469.189 (1944), authorizes the governing body of certain cities to appropriate money to advertise the municipality, its resources and advantages. This Office has taken the position that there is a distinction between statutory authorization to appropriate and use money for a purpose, and authorization to contribute money to a body generally committed to advancing a purpose. See, e.g., Op. Atty. Gen. 59a3, January 15, 1959, wherein we determined that statutory authority for a city to "appropriate money" for purposes of historical preservation and observances permitted the city to contract with the county historical society for specific services, but not to donate funds to the society to expend in its own discretion. For the

same reasons, we conclude that section 469.189 (1996) does not authorize the city to donate funds or purchase a "membership" in the local chamber of commerce.

Minn. Stat. § 469.191 (1996) provides:

A home rule or statutory city or town described in section 368.01, subdivision 1 or 1a, may appropriate not more than \$50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city or town.

It is our understanding that this section was first enacted in 1989 primarily to allow small rural towns to participate in an organization called the Minnesota Initiative Fund, an organization which received grants from the McKnight Foundation matching certain contributions from towns and cities. However, contemporaneous legislative history indicates an understanding by the legislature that this law would also allow a city or town to contribute up to \$50,000 annually to a local chamber of commerce. This seems to be a reasonable interpretation of the language of Minn. Stat. § 469.191, and it is my opinion that this provision would authorize the City of Staples to contribute up to \$50,000 annually to the Staples Chamber of Commerce.

Authority to contribute does not necessarily permit membership, however. In general, it has been our view that authority of local units of government are not authorized to form or join "private" organizations absent specific statutory authority. *See, e.g.,* Op. Atty. Gen. 92a-30, January 29, 1986; 733, July 29, 1988. For example, Minn. Stat. § 144.581 (1996), which is mentioned in those opinions, authorizes hospital authorities to join and sponsor memberships in certain organizations.

In addition, the Legislature has addressed the authority of municipalities to provide for municipal membership in certain local, state and national associations. In addition, cities are expressly authorized by Minn. Stat. § 465.58 (1996) to pay annual dues in the League of Minnesota Cities and the expenses of delegates attending the meetings thereof. Neither of these sections would apply to your situation, however.

A broader grant of authority is found in Minn. Stat. § 471.96, subd. 1 (1996), which provides as follows:

The governing bodies of cities, counties, and towns are hereby authorized to appropriate necessary funds to provide membership of their respective municipal corporations or political subdivisions respectively in county, regional, state, and national associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal

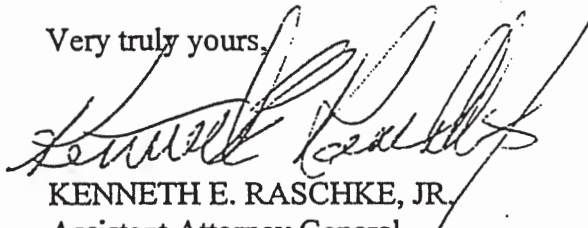
governmental operations. Cities, counties, and towns are also authorized to participate through duly designated representatives in the meetings and activities of such associations, and the governing bodies of cities, counties and towns respectively are authorized to appropriate necessary funds to defray the actual and necessary expenses of such representatives in connection therewith. For purposes of this section, the governing body of a town is the town board.

From our understanding of the nature of such organizations, it does not appear that chambers of commerce can be characterized as "associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal government operations" within the purview of this statute, even though their interests may include such objectives.

Subdivision 2 goes on to provide that the statute does not affect "any statutory, charter or common law power of cities" to provide for membership and participation in state and national associations. I am aware of no general statutory or common law power on the part of cities to provide for membership.

For the foregoing reasons, we conclude that the city lacks statutory authority to purchase membership in the local chamber of commerce. While it is possible that such authority might be contained in the City's Charter, your letter does not refer to any such charter provision, and we do not ordinarily undertake in our opinions to construe provisions of local charters. See Op. Atty. Gen. 629a, May 9, 1975.

Very truly yours,



KENNETH E. RASCHKE, JR.
Assistant Attorney General

(612) 297-1141

KER:lt
AG:25442 v1

Public Purpose Expenditures

INFORMATION MEMO

Published: August 26, 2024

This content conveys general information. Do not use it as a substitute for legal advice. Any attorney general opinions cited are available from League of Minnesota Cities Research staff.

Criteria for valid public expenditures

For an expenditure of public funds to be lawful, it must have:

- A public purpose.
- Express or implied authority.

An expenditure has a public purpose when it:

- Benefits the community.
- Directly relates to government activity.
- Does not mainly benefit a private interest (*Visina v. Freeman*, 89 N.W.2d 635 (Minn. 1958)).

Express authority is clearly stated in writing. Implied authority is not clearly stated in writing but is assumed based on other written authority.

The Minnesota Constitution allows taxation for a public purpose, but generally prohibits local taxation for a private purpose (Minn. Const. art. X, § 1). An expenditure with a private purpose may be allowed if its primary purpose is public (*R.E. Short Co. v. City of Minneapolis*, 269 N.W.2d 331 (Minn. 1978)). The Minnesota Constitution also generally prohibits cities from donating money or loaning state credit to a person, association, or corporation (Minn. Const. art. XI, § 2). Cities can, however, contribute to an association or a corporation if the expenditure has a public purpose and statutory or charter authority (Minn. Const. art. XII, § 1). There are examples of statutory authority throughout this memo.

Activities with a public purpose promote:

- Public health.
- Public safety.
- General welfare.
- Security.
- Prosperity.
- Contentment (*City of Pipestone v. Madsen*, 178 N.W.2d 594 (Minn. 1970)).

If an expenditure is challenged, courts will focus on whether the expenditure benefits the community and relates to government activity (*Abrahamson v. St. Louis Sch. Dist.*, 802 N.W.2d

393 (Minn. App. 2011)), affirmed in part and reversed in part in *Abrahamson v. St. Louis Cnty. Sch. Dist. 2142*, 819 N.W.2d 129 (Minn. 2012)).

The following could result from an expenditure that is not lawful:

- Taxpayer lawsuits. It is costly for a city council to defend itself in a lawsuit. A city council could be legally responsible for the expenditure because of the responsibility to spend the public's money for a public purpose (*Walser Auto Sales v. City of Richfield*, 635 N.W.2d 391 (Minn. App. 2001)). Individual council members could also be legally responsible for the expenditure.
- Noncompliance finding by the state auditor. This could result in future special audits and embarrassment for the city. (See generally, State Auditor's Statements of Position (filter by public purpose category).)
- Public mistrust. The council could lose the trust of the people in the community.
- Changes in law. Serious violations may cause the Legislature to make more restrictive laws on city expenditures.

Seek legal advice

Cities deciding if an expenditure has a public purpose, or how a statutory or charter authority may apply, should consult their city attorneys for legal advice.

Common questions on public spending

Many statutes limit cities' authority to spend money based on their type (statutory or home rule charter) or population-based class (Minn. Stat. § 410.01).

The expenditures listed below mostly apply to statutory cities. Charter cities should check their charters. Generally, charter cities can use the law that gives statutory cities the authority for an expenditure when:

- The city's charter is silent on the specific issue.
- No law exists that prohibits a charter city from making the expenditure.
- No law exists that states that a city's charter must be followed instead of the law on that specific issue (Minn. Stat. § 410.33).

Advertising

Cities have the authority to make advertising expenditures. This authority may apply only to a certain type of advertising for a specific purpose or it may vary based on the class of the city (Minn. Stat. §§ 469.187-.189).

City council members should carefully review an expenditure to make sure it is an advertising expenditure. A donation disguised as an advertising expenditure is not lawful (A.G. Op. (Jan. 30, 1930)).

First-class cities

Any first-class city can levy a tax, no more than 0.00080% of the estimated market value, and the city council can use the proceeds for city publicity. The city council can create a publicity

Community centers

Any city can spend money to support public or private nonprofit senior citizen or youth center facilities, programs, and services ([Minn. Stat. § 471.935](#)). There is no law that allows cities to finance other community centers, but many cities do so through state recreation laws ([Minn. Stat. §§ 471.15-.191](#)).

[View the Office of the State Auditor letter on *Expenditure of Public Funds to Schools and Senior Programs* \(pdf\).](#)

Decorations

Statutory cities can spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks ([Minn. Stat. § 412.221, subd. 34](#)). Cities should make sure that decorations are not religious.

Donations

To donate to any person, corporation, or private institution, an expenditure must have a public purpose and statutory or charter authority. There is no general authority for donations, but some laws allow cities to support certain organizations and causes. For example, one law permits donations to an incorporated developmental society ([Minn. Stat. § 469.191](#)), and some statutory economic development tools permit cities to contribute to city development and redevelopment.

[See the *Handbook for Minnesota Cities Chapter 14: Community Development and Redevelopment*.](#)

Although charities and other nonprofit organizations benefit communities, cities cannot donate to them without statutory or charter authority. Cities can, however, contract with a nonprofit organization for a particular service that cities provide but should enter into a written agreement with the nonprofit organization to document what the city will receive in exchange for the payment.

Cities can also accept gifts of real or personal property, including money, and use them following the donor's terms ([Minn. Stat. § 465.03](#); [Minn. Stat. § 465.04](#)). However, a city cannot accept or use gifts for religious or sectarian purposes. A resolution accepting the gift and the donor's terms must receive an affirmative vote of two-thirds of city council members.

[View the *Accepting Donations* model resolution \(doc\).](#)

[View the Office of the State Auditor Statement of Position — Public Purpose Expenditures: Donations and Dues.](#)

Cities cannot fundraise or solicit donations. The Office of the State Auditor has stated that cities and towns, including their departments, do not have authority to hold fundraisers ([OSA Statement of Position: Fire Department and Volunteer Fire Relief Association Fundraisers and Donations](#)). However, any city or town can, by resolution, authorize officials and staff to solicit contributions for National Night Out events or events or purposes that build positive relationships between law enforcement and the community ([Minn. Stat. § 471.198](#)).

[View the *Authorizing Solicitation of Contributions* model ordinance \(doc\).](#)

Nonprofit organizations in general

The attorney general and the state auditor have looked at whether cities can donate to different groups. Expenditures to the following groups or organizations do not have statutory authority and are not valid:

- Supporting the Boy Scouts of America (A.G. Op. 59-a-3 (May 21, 1948)).
- Sponsoring a local bowling team (A.G. Op. 218-r (Aug. 15, 1951)).
- Sponsoring a local kittenball team (like softball) (A.G. Op. 59-a-22 (Aug. 7, 1951)).
- Helping the American Legion build a Legion Hall (A.G. Op. 476-b-2 (Apr. 20, 1944)).
- Supporting the Red Cross (A.G. Op. 218-r (Feb. 10, 1942)).
- Supporting a campaign to stop the expansion of a neighboring city airport (A.G. Op. 476-b-2 (Apr. 29, 1954)).
- Supporting schools ([Office of the State Auditor letter on *Expenditure of Public Funds to Schools and Senior Programs* \(pdf\)](#)).

Cities can support nonprofits in other ways. For example, cities can contract to support nonprofits, like contracting with a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city has a fund created from gambling proceeds, those proceeds can be used for many types of charitable contributions that have a lawful purpose ([Minn. Stat. § 349.213 \(f\)\(2\)](#)).

Artistic organizations

Cities can spend money to support artistic organizations. The city council can split the money between multiple artistic organizations in amounts determined by the city council ([Minn. Stat. § 471.941](#)).

An association, corporation, or other group that gives people opportunities to participate in the creation, performance, or appreciation of artistic activities is an artistic organization. The law gives examples of artistic activities that cities can support, but this is not a complete list. These activities include music, dance, drama, folk art, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, costume and fashion design, motion pictures, television, radio, tape and sound records, activities related to the presentation, performance, execution, and exhibition of the art forms, and the study of the arts and their application to the human environment.

Community food shelves

Any city can spend money to provide grants to nonprofit organizations that run community food shelves and give food to the needy without charge ([Minn. Stat. § 465.039](#)).

Prevention of cruelty to animals

If a city has a society for the prevention of cruelty to animals (SPCA), it can spend money to maintain and support the SPCA in the work it is organized to do ([Minn. Stat. § 343.11](#)). However, none of the money can pay the salary of any officer of the SPCA.

Solicitation of donations by firefighters

Any city can, by resolution, allow full-time firefighters employed by the city and while on duty, or volunteer firefighters serving the city while not on duty, to solicit charitable contributions

from motorists ([Minn. Stat. § 465.90](#)).

Cities must follow the requirements in the law, including restrictions on the type of charitable organizations, the frequency and time frame of solicitations, and proof of insurance.

Surplus city equipment

Statutory and home rule charter cities can donate surplus equipment to a nonprofit organization. This includes equipment used by city public works departments, and cellular phones and emergency medical and firefighting equipment no longer needed by the city (because the phones or equipment no longer meet industry standards for emergency medical services, police, or fire departments; have minimal value; or have no resale value). Before donating, cities must adopt a policy on how the city will decide what qualifies a surplus item as eligible for donation and how the city will select the nonprofit organizations eligible to receive donations. The policy must state that cities are required to disclose to the nonprofit that the surplus equipment may be defective and cannot be relied upon for safety purposes” ([Minn. Stat. § 471.3459](#)).

[View the *Donation of Surplus City Equipment to a Nonprofit Organization* model policy \(doc\).](#)

Dues

Cities cannot join or become members of private organizations without statutory authority, even if there is statutory authority to contribute to the organization. Without authority for membership, cities do not have authority to pay membership dues (A.G. Op. (June 27, 1997) (informal letter opinion to Staples); ([Office of the State Auditor, Statement of Position Public Expenditure: Donations and Dues](#)).

All counties, cities, and towns can spend money for membership in county, regional, state, and national associations that are civic, educational, or governmental. The associations’ purpose must include the betterment and improvement of municipal government operations. Counties, cities, and towns can participate in the associations’ meetings and activities ([Minn. Stat. § 471.96](#)).

All cities and urban towns in Minnesota can spend money to pay dues to become members of the League of Minnesota Cities ([Minn. Stat. § 465.58](#)).

Elections

Cities can spend money to hold general and special elections authorized by law.

Special elections/advisory elections

Special elections, whether authorized by statute or city charter, are valid public expenditures.

Many home rule charter cities have charters with initiative and referendum provisions. These provisions give charter cities additional powers related to questions that can be put on a special election ballot. Voters in these cities often have the right to petition for special elections in specific situations.

Elections on ballot questions that the public has no statutory or charter authority to answer are considered advisory elections. Advisory elections are prohibited and expenditures on advisory elections are not valid. A.G. Op. 472-o (July 31, 1959). A.G. Op. 185-b-2 (June 28, 1962). A.G. Op. 185-b-2 (Apr. 6, 1962).

[Read more on this topic in *City Special Elections*.](#)

Office of the Revisor of Statutes

2024 Minnesota Statutes

Authenticate  PDF

138.053 COUNTY HISTORICAL SOCIETY; TAX LEVY; CITIES OR TOWNS.

The governing body of any home rule charter or statutory city or town may annually appropriate from its general fund an amount not to exceed 0.02418 percent of estimated market value, derived from ad valorem taxes on property or other revenues, to be paid to the historical society of its respective city, town, or county to be used for the promotion of historical work and to aid in defraying the expenses of carrying on the historical work in the city, town, or county. No city or town may appropriate any funds for the benefit of any historical society unless the society is affiliated with and approved by the Minnesota Historical Society.

History: 1963 c 129 s 1; 1973 c 123 art 5 s 7; 1973 c 773 s 1; 1983 c 315 s 1; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 11; 1994 c 505 art 3 s 4; 2008 c 158 s 1; 2013 c 143 art 14 s 16; 1Sp2019 c 6 art 4 s 3

Official Publication of the State of Minnesota
Revisor of Statutes

2025 Preliminary Estimated Market Value:
 $\$1,231,708,300 * .02418\% = \$297,827$



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Conduct Public Hearing and Adopt Resolution Regarding the Conduit Debt for the Country Manor Project

AGENDA: Main

ACTION REQUESTED: Adopt Resolution

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER: Connie Hillman, Finance Director

ESTIMATED TIME (MIN): 10 Minutes

SUMMARY OF ISSUE: Ms. Sofia Lykke with Kutak Rock will be attending the meeting remotely and will be able to answer any questions.

The City was requested to issue conduit debt for the Country Manor project up to \$50 million. A city is allowed to act as a conduit for certain types of private entities to be able to obtain tax-exempt financing for certain projects, resulting in lower interest costs for the borrower. Country Manor (the borrower) is an eligible entity, and the Country Manor project is an eligible project for the City to be able to issue conduit debt.

By the City of Brainerd issuing conduit debt, there is no obligation for the City to pay the debt, there is no impact on the City's credit rating, and the conduit debt does not go towards the City's debt limit. It does, however, count toward the City's annual \$10 million limit to issue bank-qualified (BQ) bonds. The City can charge an administration fee for issuing the debt (0.25% up to a maximum of \$50,000 per City policy) and all expenditures incurred by the City are paid for by the borrower.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: There is a statutory process for the City to be able to issue the conduit debt. One of the requirements is to hold a public hearing. At the February 18, 2025 council meeting, the City Council passed a resolution calling for a public hearing on March 17th, and provided preliminary approval for the issuance of the conduit debt. The resolution also authorized the City to prepare the required DEED application as required for the child care center that is part of the project, which was done by Kutak Rock.

As mentioned, by the City issuing up to the \$50 million of conduit debt, it does count toward the City's annual \$10 million limit on issuing BQ debt, which could result in the City having to pay a higher interest rate when it issues debt in 2025 for its construction projects. To make the City whole, as part of the other documents that will be approved by the adoption of the resolution, there is a BQ Fee agreement between the City and the Borrower, in which the Borrower will agree to pay the City the present value of the difference in interest rates for the life of the bond. There is a "true up" around December 1, 2025 that will occur, and any difference in the amount of debt and/or interest rates from the estimate will be done.

After the public hearing, the City Council will consider adopting the attached resolution approving the plan of financing for a senior living campus in the City to be financed with conduit revenue bonds and authorizing the issuance of such bonds for the benefit of Country Manor Campus Brainerd LLC; approving a housing program; authorizing the execution of documents; and taking other actions in connection therewith. As part of the resolution are several other documents that are still in draft form but when finalized and will become part of the resolution. The draft documents are attached:

- Senior Bond Documents (Series 2025A):
 - a. Indenture
 - b. Loan Document
 - c. Bond Purchase Agreement
- Subordinate Bond Documents (Series 2025B):
 - a. Indenture
 - b. Loan Document
 - c. Bond Purchase Agreement
- BQ Fee Agreement

Similar to when the City issues debt, the documents will continue to be revised until the date of the closing, but the draft forms on file with the City are substantially final, except for the dates and numbers, as well as certain other details negotiated between the borrower and underwriter. The closing date is currently anticipated to occur the end of April or shortly thereafter. By adopting the resolution, the Mayor and City Administrator are authorized to execute the required bond documents. The proposed resolution also approves the housing program, which Kutak Rock submitted to Region 5 on behalf of the City as required by state statute.

The documents are attached for your reference. The maximum \$50 million debt is being issued in two parts (Series A and B). The City is issuing the debt (the bonds) pursuant the Indentures, and the underwriter, Colliers, is purchasing the bonds from the City pursuant the Bond Purchase Agreements (who will then market and sell the bonds to institutional and retail buyers pursuant to offering documents prepared for the bonds), and the City in turn is loading the proceeds received from the sales of the bonds to Country Manor pursuant to the Loan Agreements. The City is acting as the conduit through which the bonds may be issued as tax exempt, with no money actually flowing through the City.

RECOMMENDED ACTION/MOTION: 1. Conduct public hearing on the issuance of conduit debt for County Manor.
2. Adopt resolution approving the plan of financing for a senior living campus in the City to be financed with conduit revenue bonds and authorizing the issuance of such bonds for the benefit of Country Manor Campus Brainerd LLC; approving a housing program; authorizing the execution of documents; and taking other actions in connection therewith.

FINANCIAL IMPACT: The City will receive and administrative fee \$50,000.

CITY OF BRAINERD, MINNESOTA

NOTICE OF PUBLIC HEARING ON THE ISSUANCE OF CONDUIT REVENUE BONDS UNDER MINNESOTA STATUTES, CHAPTER 462C AND SECTIONS 469.152 THROUGH 469.1655, AS AMENDED, FOR THE BENEFIT OF COUNTRY MANOR CAMPUS BRAINERD LLC

NOTICE IS HEREBY GIVEN that the City Council of the City of Brainerd, Minnesota (the “City”), will hold a public hearing on Monday, March 17, 2025, at or after 7:30 p.m. at City Hall, located at 501 Laurel Street in the City, on a proposal that the City Council approve a plan of finance and authorize the issuance by the City of its conduit revenue bonds, in one or more series, as tax-exempt or taxable obligations (collectively, the “Bonds”), under Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), and Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the “Industrial Development Act”), for the benefit of Country Manor Campus Brainerd LLC, a Minnesota limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The Borrower intends to apply the proceeds of the Bonds, along with other available funds, to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way in the City (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a day care to be located on the Property (the “Day Care Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; (iv) fund required reserves; (v) finance capitalized interest; and (vi) pay costs of issuance of the Bonds. The Borrower will own and operate the Project. The Bonds are proposed to be issued in an estimated aggregate principal amount not to exceed \$50,000,000.

The Bonds will be issued by the City and will constitute special, limited obligations of the City payable solely from the revenues expressly pledged to the payment thereof, and will not constitute a general or moral obligation of the City and will not be secured by the taxing power of the City or any assets or property of the City except interests in the Project that may be granted to the City in conjunction with the financing.

Following the public hearing, the City Council will consider adoption of a resolution approving a housing program prepared in connection with the Senior Housing Project to be financed and the Prior Taxable Debt to be refinanced in accordance with the Housing Act (the “Housing Program”) and granting final approval to the issuance of the Bonds to finance and refinance the Project. A copy of the Housing Program and a draft copy of the application to the Minnesota Department of Employment and Economic Development for approval of the Day Care Project, together with all attachments and exhibits prepared in accordance with the Industrial Development Act, are available for public inspection following the publication of this notice, at City Hall during normal business hours.

All persons interested may appear and be heard at the time and place set forth above or may file written comments with the City Administrator prior to the date of the hearing set forth above.

Dated: March 1, 2025

BY ORDER OF THE CITY COUNCIL OF THE
CITY OF BRAINERD, MINNESOTA

/s/ Nick Broyles

City Administrator

City of Brainerd, Minnesota

CITY OF BRAINERD, MINNESOTA

**RESOLUTION
NO. _____**

APPROVING THE PLAN OF FINANCING FOR A SENIOR LIVING CAMPUS IN THE CITY TO BE FINANCED WITH CONDUIT REVENUE BONDS AND AUTHORIZING THE ISSUANCE OF SUCH BONDS FOR THE BENEFIT OF COUNTRY MANOR CAMPUS BRAINERD LLC; APPROVING A HOUSING PROGRAM; AUTHORIZING THE EXECUTION OF DOCUMENTS; AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH

BE IT RESOLVED by the City Council of the City of Brainerd, Minnesota (the "City"), as follows:

Section 1. Recitals.

1.01. Pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Housing Act"), the City is authorized to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds to provide funds to finance and refinance multifamily housing developments (including independent living, assisted living, and memory care facilities).

1.02. Pursuant to Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Industrial Development Act"), the City is authorized to issue revenue bonds to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of a project, defined in the Industrial Development Act to include any properties, real or personal, used or useful in connection with a revenue producing enterprise.

1.03. Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the "Borrower"), the sole member of which is The Foundation For Health Care Continuums (the "Sole Member"), a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), has proposed that the City issue its revenue obligations, in one or more series, as tax-exempt or taxable obligations (collectively, the "Bonds"), in an aggregate principal amount estimated not to exceed \$50,000,000, and loan the proceeds thereof to the Borrower. The Borrower intends to apply the proceeds thereof, along with other available funds, to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the "Property") north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way in the City (the "Senior Housing Project"); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a child care center to be located on the Property (the "Child Care Center Project," and together with the Senior Housing Project, the "Project"); (iii) refinance a taxable obligation (the "Prior Taxable Debt") previously incurred by the Sole Member for the acquisition or improvement of the Project; (iv) fund required reserves and working capital; (v) finance capitalized interest; and (iv) pay costs of issuance of the Bonds. The Borrower will own and operate the Project.

1.04. As a condition to issuing a portion of the Bonds under the Housing Act to provide financing for the Senior Housing Project and refinancing for the Prior Taxable Debt, the City must

adopt a housing program providing the information required by Section 462C.03, subdivision 1a of the Housing Act (the "Housing Program").

1.05. As a condition to issuing a portion of the Bonds under the Industrial Development Act to provide financing for the Child Care Center Project, the City Council must find that the Child Care Center Project furthers the purposes stated in Section 469.152 of the Industrial Development Act and the Commissioner of the Minnesota Department of Employment and Economic Development ("DEED") must approve the Child Care Center Project on the basis of an application submitted by the City with all required attachments and exhibits (the "DEED Application"). Pursuant to Resolution 15:25, adopted by the City Council on February 18, 2025, the City Council made such findings and authorized the preparation of the DEED Application. The Borrower has informed the City that the Child Care Center Project may be financed with a combination of proceeds of the Bonds and/or equity of the Borrower and/or Sole Member and/or affiliates.

1.06. Pursuant Section 147(f) of the Code, prior to the issuance of the Bonds, the City Council must, after reasonable public notice, conduct a public hearing (the "Public Hearing") on the Project and the proposed issuance of the Bonds, and following the Public Hearing approve the Project to be financed with the proceeds of the Bonds or a plan of financing for the Project to be financed with the proceeds of the Bonds. Reasonable public notice includes posting the notice on the City's website or publication of the notice in a newspaper of general circulation available to residents in the City at least seven (7) days before the hearing. Under Section 462C.04, subdivision 2 of the Housing Act, a public hearing must be held on the Housing Program after one publication of notice in a newspaper circulating generally in the City at least fifteen (15) days before the Public Hearing. Under Section 469.154, subdivision 4 of the Industrial Development Act, a public hearing must be held regarding the Child Care Center Project after one publication of notice in the official newspaper of the City at least fourteen (14) days before the Public Hearing.

1.07. A notice of public hearing was published in the *Brainerd Dispatch*, the official newspaper of and a newspaper of general circulation in the City, at least fifteen (15) days prior to the regularly scheduled meeting of the City Council, with respect to the required public hearing under Section 147(f) of the Code, the Housing Act, and the Industrial Development Act.

1.08. On the date hereof, the City Council conducted a duly noticed public hearing at which a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on (i) the plan of financing for the Project and the issuance of the Bonds to finance the Project pursuant to the requirements of Section 147(f) of the Code, and the Treasury Regulations promulgated thereunder; (ii) the Bonds and the Housing Program for the Senior Housing Project and the Prior Taxable Debt under Section 462C.03, subdivision 1a of the Housing Act; and (iii) the proposal to finance the Child Care Center Project under Section 469.154, subdivision 4 of the Industrial Development Act.

Section 2. Housing Program. The Housing Program prepared in connection with the Senior Housing Project and the refinancing of the Prior Taxable Debt, in the form substantially on file with the City, is hereby approved. Kutak Rock LLP, Minneapolis, Minnesota, as bond counsel to the City ("Bond Counsel"), has submitted the Housing Program to the Region Five Development Commission for review and comment as required by Section 462C.04, subdivision 2 of the Housing Act.

Section 3. DEED Application. In accordance with Section 469.154 of the Industrial Development Act, Bond Counsel has prepared a draft copy of the DEED Application, together with drafts of all required attachments and exhibits, with respect to the Child Care Center Project.

The City Council authorizes Bond Counsel to submit the DEED Application and all required attachments and exhibits thereto to DEED for review and approval of the Child Care Center Project, to the extent that the Child Care Center Project is financed with proceeds of the Bonds.

Section 4. The Bonds. The City hereby approves the plan of financing for the Project to be financed with the Bonds and authorizes the issuance of the Bonds in the estimated aggregate principal amount not to exceed \$50,000,000. All or a portion of the Bonds may be issued as “tax-exempt obligations,” the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. Furthermore, the Bonds may be issued in one or more series, as tax-exempt or taxable obligations, and on a senior and/or subordinate basis, as described in this resolution.

Section 5. The Senior Bonds. The Borrower has requested that the City issue, sell, and deliver a portion of the Bonds as one or more series of tax-exempt or taxable bonds (the “Senior Bonds”), which are proposed to be purchased by Colliers Securities LLC, a Delaware limited liability company (the “Underwriter”), through a public offering.

5.01. The Senior Bonds will be issued pursuant to the Housing Act and the Industrial Development Act (together, the “Act”), this resolution, and an Indenture of Trust (the “Senior Indenture”) between the City and U.S. Bank Trust Company, National Association, a national banking association, in its capacity as trustee with respect to the Senior Bonds (the “Senior Trustee”). The proceeds derived from the sale of the Senior Bonds will be loaned by the City to the Borrower (the “Senior Loan”) pursuant to the terms of a Loan Agreement (the “Senior Loan Agreement”) between the City and the Borrower.

5.02. The Senior Bonds and the interest thereon (i) shall be payable solely from the revenues pledged therefor under the Senior Loan Agreement and additional sources of revenue provided by or on behalf of the Borrower; (ii) shall not constitute a debt of the City within the meaning of any constitutional, statutory, or charter limitation; (iii) shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute, a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City’s interest in the Senior Loan Agreement; and (v) shall not constitute a general or moral obligation of the City.

5.03. The loan repayments to be made by the Borrower under the Senior Loan Agreement (the “Senior Loan Repayments”) will be fixed so as to produce revenue sufficient to pay the principal of, premium, if any, and interest on the Senior Bonds when due. Such Senior Loan Repayments will be assigned to the Senior Trustee (except for certain reserved rights of the City) under the terms of the Senior Indenture.

5.04. The Borrower’s obligation to make the Senior Loan Repayments will be evidenced and secured by the following documents (collectively, the “Senior Security Documents”): (i) a Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Borrower in favor of the Senior Trustee; (ii) one or more guaranties; and (iii) other documents determined by Bond Counsel to be necessary to evidence and secure the Borrower’s repayment obligations with respect to the Senior Loan.

5.05. The City acknowledges, finds, determines, and declares that the issuance of the Senior Bonds under the Act is consistent with the purposes of the Act and that the issuance of the Senior Bonds, and the other actions of the City under the Senior Indenture, the Senior Loan Agreement, and this resolution constitute a public purpose and are in the interests of the City. In

authorizing the issuance of the Senior Bonds, the City's purpose is and in effect thereof will be to promote the public welfare of the City and its residents by furthering the purposes and policies of the Act.

5.06. The Senior Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such form, and shall have other terms, details, and provisions, as are prescribed in the Senior Indenture, substantially in the form now on file with the City, with the variations, omissions, and insertions authorized therein.

5.07. All of the provisions of the Senior Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Senior Bonds shall be substantially in the form of the Senior Indenture on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the aggregate principal amount of the Senior Bonds, the stated maturities of the Senior Bonds, the interest rates on the Senior Bonds and the terms of redemption of the Senior Bonds) as the Mayor and the City Administrator, in their discretion, shall determine. The execution of the Senior Bonds with the manual or facsimile signatures of the Mayor and the City Administrator and the delivery of the Senior Bonds by the City shall be conclusive evidence of such determination.

5.08. The Senior Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the Senior Loan Agreement and other funds pledged pursuant to the Senior Indenture. The City Council hereby authorizes and directs the Mayor and the City Administrator to execute the Senior Bonds in accordance with the terms thereof.

5.09. All of the provisions of the Senior Indenture, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Senior Indenture shall be in substantially the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions and insertions (including but not limited to changes in the aggregate principal amount of the Senior Bonds, the stated maturities of the Senior Bonds, the interest rates of the Senior Bonds, and the terms of redemption of the Senior Bonds) as do not materially change the substance thereof, and as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination. The Mayor and the City Administrator are hereby authorized and directed to execute the Senior Indenture, and to deliver the Senior Indenture to the Senior Trustee, and hereby authorizes and directs the execution and delivery of the Senior Bonds in accordance with the terms of the Senior Indenture, and hereby provides that the Senior Indenture shall provide the terms and conditions, covenants, rights, obligations, duties, and agreements of the owners of the Senior Bonds, the City, and the Senior Trustee as set forth therein.

5.10. The Mayor and the City Administrator are hereby authorized and directed to execute and deliver the Senior Loan Agreement, a Bond Purchase Agreement with respect to the purchase of the Senior Bonds (the "Senior Bond Purchase Agreement") between the City, the Borrower, and the Underwriter, and all other documents, certificates, and assignments related to the Senior Loan required to be executed by the City. All of the provisions of such documents, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and

to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The aforementioned documents shall be in substantially the forms on file with the City, which are hereby approved, with such necessary and appropriate variations, omissions and insertions as do not materially change the substance thereof, and as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.

5.11. The City hereby authorizes the Borrower to provide such security for payment of its obligations under the Senior Loan Agreement and for payment of the Senior Bonds, and the City hereby approves the execution and delivery of the Senior Security Documents.

Section 6 The Subordinate Bonds. The Borrower has requested that the City issue, sell, and deliver a portion of the Bonds as one or more series of tax-exempt or taxable bonds (the "Subordinate Bonds"), which are proposed to be purchased by the Underwriter through a through a public offering.

6.01. The Subordinate Bonds will be issued pursuant to the Act, this resolution, and a Subordinate Indenture of Trust (the "Subordinate Indenture") between the City and U.S. Bank Trust Company, a national banking association, in its capacity as trustee with respect to the Subordinate Bonds (the "Subordinate Trustee"). The proceeds derived from the sale of the Subordinate Bonds will be loaned by the City to the Borrower (the "Subordinate Loan") pursuant to the terms of a Subordinate Loan Agreement (the "Subordinate Loan Agreement") between the City and the Borrower.

6.02. The Subordinate Bonds and the interest thereon (i) shall be payable solely from the revenues pledged therefor under the Subordinate Loan Agreement and additional sources of revenue provided by or on behalf of the Borrower; (ii) shall not constitute a debt of the City within the meaning of any constitutional, statutory, or charter limitation; (iii) shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute, a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Subordinate Loan Agreement; and (v) shall not constitute a general or moral obligation of the City.

6.03. The loan repayments to be made by the Borrower under the Subordinate Loan Agreement (the "Subordinate Loan Repayments") will be fixed so as to produce revenue sufficient to pay the principal of, premium, if any, and interest on the Subordinate Bonds when due. The Subordinate Loan Repayments will be assigned to the Subordinate Trustee (except for certain reserved rights of the City) under the terms of the Subordinate Indenture. The Borrower's pledge of revenues to the repayment of the Subordinate Bonds is subordinate to the Borrower's pledge of revenues to the repayment of the Senior Bonds.

6.04. The Borrower's obligation to make the Subordinate Loan Repayments will be evidenced and secured by the following documents (collectively, the "Subordinate Security Documents"): (i) a Subordinate Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents by the Borrower in favor of the Subordinate Trustee; (ii) one or more guaranties; and (iii) other documents determined by Bond Counsel to be necessary to evidence and secure the Borrower's repayment obligations with respect to the Subordinate Loan.

6.05. The City acknowledges, finds, determines, and declares that the issuance of the Subordinate Bonds under the Act is consistent with the purposes of the Act and that the issuance of the Subordinate Bonds, and the other actions of the City under the Subordinate Indenture, the Subordinate Loan Agreement, and this resolution constitute a public purpose and are in the interests of the City. In authorizing the issuance of the Subordinate Bonds, the City's purpose is and in effect thereof will be to promote the public welfare of the City and its residents by furthering the purposes and policies of the Act.

6.06. The Subordinate Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such form, and shall have other terms, details, and provisions, as are prescribed in the Subordinate Indenture, substantially in the form now on file with the City, with the variations, omissions, and insertions authorized therein.

6.07. All of the provisions of the Subordinate Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Subordinate Bonds shall be substantially in the form of the Subordinate Indenture on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the aggregate principal amount of the Subordinate Bonds, the stated maturities of the Subordinate Bonds, the interest rates on the Subordinate Bonds and the terms of redemption of the Subordinate Bonds) as the Mayor and the City Administrator, in their discretion, shall determine. The execution of the Subordinate Bonds with the manual or facsimile signatures of the Mayor and the City Administrator and the delivery of the Subordinate Bonds by the City shall be conclusive evidence of such determination.

6.08. The Subordinate Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the Subordinate Loan Agreement and other funds pledged pursuant to the Subordinate Indenture. The City Council hereby authorizes and directs the Mayor and the City Administrator to execute the Subordinate Bonds in accordance with the terms thereof.

6.09. All of the provisions of the Subordinate Indenture, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Subordinate Indenture shall be in substantially the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions and insertions (including but not limited to changes in the aggregate principal amount of the Subordinate Bonds, the stated maturities of the Subordinate Bonds, the interest rates of the Subordinate Bonds, and the terms of redemption of the Subordinate Bonds) as do not materially change the substance thereof, and as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination. The Mayor and the City Administrator are hereby authorized and directed to execute the Subordinate Indenture, and to deliver the Subordinate Indenture to the Subordinate Trustee, and hereby authorizes and directs the execution and delivery of the Subordinate Bonds in accordance with the terms of the Subordinate Indenture, and hereby provides that the Subordinate Indenture shall provide the terms and conditions, covenants, rights, obligations, duties, and agreements of the owners of the Subordinate Bonds, the City, and the Subordinate Trustee as set forth therein.

6.10. The Mayor and the City Administrator are hereby authorized and directed to execute and deliver the Subordinate Loan Agreement, a Bond Purchase Agreement with respect to the purchase of the Subordinate Bonds (the "Subordinate Bond Purchase Agreement") between the City, the Borrower, and the Underwriter, and all other documents, certificates and assignments related to the Subordinate Loan required to be executed by the City. All of the provisions of such documents, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The aforementioned documents shall be in substantially the forms on file with the City, which are hereby approved, with such necessary and appropriate variations, omissions and insertions as do not materially change the substance thereof, and as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.

6.11. The City hereby authorizes the Borrower to provide such security for payment of its obligations under the Subordinate Loan Agreement and for payment of the Subordinate Bonds, and the City hereby approves the execution and delivery of the Subordinate Security Documents.

Section 7. Other Documents.

7.01. Bond Counsel has advised the City that the issuance of the Bonds will inhibit the City's ability to designate any general obligation bonds issued in calendar year 2025 (the "General Obligation Bonds") as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code. There has been presented to the City Council a form of Bank Qualified Fee Agreement (the "BQ Fee Agreement") between the City and the Borrower, pursuant to which the Borrower will agree to pay to the City the present value of the amount by which the interest to be payable on any General Obligation Bonds for the term of the General Obligation Bonds exceeds the interest that would have been payable on the General Obligation Bonds for the term of the General Obligation Bonds if such General Obligation Bonds could have been designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The Mayor and the City Administrator are hereby authorized and directed to execute and deliver the BQ Fee Agreement. All of the provisions of the BQ Fee Agreement, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The BQ Fee Agreement shall be in substantially the form on file with the City, which is hereby approved, with such necessary and appropriate variations, omissions and insertions as do not materially change the substance thereof, and as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.

7.02. In reliance on representations of the Borrower and others, the City hereby approves the form of the preliminary official statement relating to the Senior Bonds and the preliminary official statement relating to the Subordinate Bonds (together, the "Preliminary Offering Documents") submitted to this meeting and authorizes the distribution and use of the Preliminary Offering Documents in connection with the respective public offerings for the sale of the respective Bonds. The preparation of the final official statement relating to the Senior Bonds and final official statement relating to the Subordinate Bonds (together, the "Final Offering Documents"), each in substantially the form of the respective final Preliminary Offering Documents, with such changes as shall be necessary to conform to the details of the Bonds using the Preliminary Offering Documents and the Final Offering Documents.

Neither the City nor any of its officers, agents, employees or representatives have reviewed the Preliminary Offering Documents or the Final Offering Documents (collectively, the "Offering Documents") or investigated the statements or representations contained therein, except for those statements relating to the City set forth under the captions "THE ISSUER" and "ABSENCE OF MATERIAL LITIGATION – The Issuer." Except with respect to the information contained under such captions, neither the City nor any of its officers, agents, employees, or representatives makes any representation as to the completeness, sufficiency, and truthfulness of the statements set forth therein. None of the officers of the City executing the Senior Bonds and the Subordinate is subject to personal liability by reason of the issuance or execution of the Senior Bonds and Subordinate Bonds. Bond Counsel has not participated in the preparation of the Offering Documents and is not passing upon its accuracy, completeness or sufficiency. Bond Counsel has not examined, nor attempted to examine, or verify, any of the financial or statistical statements or data contained in Offering Documents, and will express no opinion with respect thereto.

7.03. The Mayor, the City Administrator, and the Finance Director of the City are hereby authorized and directed to execute and deliver, on behalf of the City, such other documents and certificates as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including various certificates of the City, and Information Return for Tax-Exempt Private Activity Bonds Issues, Form 8038, one or more endorsements to one or more tax certificates of the Borrower and the Sole Member, and similar documents, and are deemed necessary by Bond Counsel to carry out the intentions of this resolution and to complete the financing described herein. The City authorizes Bond Counsel to prepare, execute, and deliver its approving legal opinions with respect to the Bonds.

7.04. As part of the financing for the Project, the various parties may determine that it is necessary to execute one or more subordination agreements or intercreditor agreements. The Mayor and the City Administrator are hereby authorized and directed to deliver and execute, on behalf of the City, such subordination agreements and intercreditor agreements following their review and approval by City staff and Bond Counsel.

Section 8. Miscellaneous.

8.01. Except as otherwise provided in this resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or such members of the City Council, or such officers, board, body, or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

8.02. No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council, or any officer, agent, or employee of the City in that person's individual capacity, and neither the City Council nor any officer or employee executing the Bonds shall be personally liable on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

8.03. No provision, covenant or agreement contained in the aforementioned documents, the Bonds, or in any other document relating to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to a general or moral obligation of the City or any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in

such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues as described herein which are to be applied to the payment of the Bonds, as provided therein.

8.04. Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied is intended or shall be construed to confer upon any person or firm or corporation, other than the City, any holder of the Bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, this resolution, the aforementioned documents, and all of their provisions being intended to be and being for the sole and exclusive benefit of the City, and any holder from time to time of the Bonds issued under the provisions of this resolution.

8.05. In case any one or more of the provisions of this resolution, other than the provisions related to the nature of the Bonds as special, limited obligations of the City, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

8.06. The Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bonds, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.

8.07. The officers of the City, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bonds, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bonds, the aforementioned documents, and this resolution. If for any reason the Mayor or the City Administrator is unable to execute and deliver the documents referred to in this resolution, such documents may be executed by any member of the City Council or any officer of the City delegated the duties of the Mayor or the City Administrator with the same force and effect as if such documents were executed and delivered by the Mayor or the City Administrator. The City may execute documents, certificates, and instruments relating to the issuance of the Bonds by electronic signature. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message; or (iii) a digital signature of an authorized representative of any party provided by AdobeSign or DocuSign (or such other digital signature provider as specified by such party).

8.08. The Borrower will be obligated pay the administrative fee of the City on the date of issuance of the Bonds as provided in the Senior Loan Agreement and the Subordinate Loan Agreement. The Borrower will also pay, or, upon demand, reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds, whether or not the Bonds are issued, including any costs for attorneys' fees.

8.09. The authority to approve, execute and deliver future amendments to the documents approved pursuant to this resolution (the "Financing Documents") herein authorized to be entered into by the City in connection with the issuance of the Bonds and any consents required under the Financing Documents is hereby delegated to the City Administrator, subject to the following conditions: (a) such amendments or consents do not require the consent of the holder of the Bonds or such consent has been obtained; (b) such amendments or consents do not materially adversely affect the interests of the City; (c) such amendments or consents do not contravene or violate any policy of the City, and (d) such amendments or consents are acceptable in form and substance to Bond Counsel or other counsel retained by the City to review such amendments. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this resolution. The execution of any instrument by the City Administrator shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the absence of the City Administrator, any instrument authorized by this paragraph to be executed and delivered may be executed by the officer of the City authorized to act in his place and stead.

Section 9. Effective Date. This resolution shall be in full force and effect from and after its approval.

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

Adopted this ____ day of _____, 2025.

MIKE O'DAY
President of the Council

Approved this ____ day of _____, 2025.

DAVE BADEAUX
Mayor

ATTEST:

NICHOLAS W. BROYLES
City Administrator

INDENTURE OF TRUST

between

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

and

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

Dated as of April 1, 2025

Relating to:

**§[Par A]
City of Brainerd, Minnesota
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A**

**§[Par A-T]
City of Brainerd, Minnesota
Taxable Senior Housing and Healthcare
Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A-T**

This instrument was drafted by:

Kutak Rock LLP (SEL)
60 South Sixth Street, Suite 3400
Minneapolis, MN 55402

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of April 1, 2025 (the “Indenture”), is between the CITY OF BRAINERD, MINNESOTA, a home rule charter city and political subdivision of the State of Minnesota, organized and existing pursuant to its charter and the Constitution and laws of the State of Minnesota (the “Issuer”), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association with trust powers having a place of business in Saint Paul, Minnesota (the “Trustee”).

WITNESSETH:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), the Issuer is authorized to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds to provide funds to finance and refinance multifamily housing developments combined with a new or existing health care facility (including independent living, assisted living, and memory care facilities); and

WHEREAS, pursuant to Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the “Industrial Development Act”), the Issuer is authorized to issue revenue bonds to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of a project, defined in the Industrial Development Act, to include any properties, real or personal, used or useful in connection with a revenue producing enterprise; and

WHEREAS, Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums (the “Sole Member”), a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, has proposed to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a child care center to be located on the Property (the “Child Care Center Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred by the Sole Member for the acquisition or improvement of the Project; (iv) fund a debt service reserve fund for the Senior Bonds (as defined below); (v) fund capitalized interest on the Senior Bonds; (vi) fund working capital reserves and tax and insurance escrows; and (vii) pay costs of issuance of the Senior Bonds; and

WHEREAS, in order to finance a portion of the costs of the Project, finance capitalized interest, fund required reserves, and pay related costs of issuance, the Borrower has requested that the Issuer issue its Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A (the “Series 2025A Bonds”), in the original aggregate principal amount of \$[Par A], and its Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the “Series 2025A-T Bonds” and, together with the Series 2025A Bonds, the “Senior Bonds”), in the original aggregate principal amount of \$[Par A-T], in accordance with the Housing Act, the Industrial Development Act, a resolution adopted by the City Council of the Issuer on March 17, 2025 (the “Bond Resolution”), and this Indenture; and

WHEREAS, the Issuer will loan the proceeds of the Senior Bonds to the Borrower pursuant to a Loan Agreement, dated as of April 1, 2025 (the “Loan Agreement”), between the Issuer and the

Borrower, and the Borrower will agree under the Loan Agreement to make loan repayments as required to repay the Series 2025A Bonds and the Series 2025A-T Bonds; and

WHEREAS, to secure the payment of the principal of, premium (if any), and interest on the Series 2025A Bonds and the Series 2025A-T Bonds and the Borrower's obligations under the Loan Agreement, the Borrower will execute a Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the "Mortgage"), in favor of the Trustee; and

WHEREAS, the completion of the Project and the debt service on the Senior Bonds will be further secured by a Senior Limited Guaranty Agreement, dated as of April 1, 2025 (the "Senior Limited Guaranty"), by the Sole Member in favor of the Trustee; and

WHEREAS, the Borrower has also requested that the Issuer issue its Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B (the "Series 2025B Bonds" or "Subordinate Bonds"), in the original aggregate principal amount of \$[Par B], in accordance with the Housing Act, the Industrial Development Act, the Bond Resolution, and a separate Subordinate Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee in order to finance a portion of the costs of the Project, finance capitalized interest on the Series 2025B Bonds, fund a debt reserve fund for the Subordinate Bonds, and pay costs of issuance for the Subordinate Bonds; and

WHEREAS, the Issuer will loan the proceeds of the Subordinate Bonds to the Borrower pursuant to a separate Subordinate Loan Agreement, dated as of April 1, 2025 (the "Subordinate Loan Agreement"), between the Issuer and the Borrower, and the Borrower will agree under the Subordinate Loan Agreement to make loan repayments as required to repay the Subordinate Bonds; and

WHEREAS, all conditions, acts and things necessary and required by the Constitution and laws of the State of Minnesota, or otherwise, to exist, to have happened or to have been performed precedent to and in the execution and delivery of this Indenture, and in the issuance of the Series 2025A Bonds and the Series 2025A-T Bonds, do exist, have happened or have been performed in regular form, time and manner, and the execution and delivery of this Indenture have been in all respects duly authorized; and

WHEREAS, the Trustee has accepted the trust created by this Indenture and in evidence thereof has joined in the execution.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

To secure payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect, and the performance of all covenants and conditions therein and herein contained, and in consideration of the premises, and of the purchase of the Bonds by the Holders thereof, the Issuer by these presents does hereby pledge and grant to the Trustee and its successors in trust a security interest in and lien on the following described property, rights, privileges and franchises (collectively, the "Trust Estate"), to wit:

GRANTING CLAUSE FIRST

All rights, title, interest and privilege of the Issuer in, to and under the Loan Agreement, including, but not limited to, all Loan Repayments and Additional Payments (all as hereinafter defined) and the rights to receive the same and the proceeds thereof (including without limitation rights to payment

intangible related thereto), the Mortgage, and the Senior Limited Guaranty, but excluding the Issuer's Unassigned Rights (as defined herein).

GRANTING CLAUSE SECOND

All other property of every kind which is now or hereafter subjected to the lien of this Indenture or pledged or assigned to the Trustee pursuant to the provisions of this Indenture, including without limitation, all cash and securities now or hereafter held in the Trust Funds created or established under this Indenture, and all insurance proceeds and condemnation awards or other money represented by Trust Money (as hereinafter defined).

TO HAVE AND TO HOLD the Trust Estate unto the Trustee and its successors and assigns forever.

BUT IN TRUST, NEVERTHELESS, for the equal and proportionate benefit and security of the Holders from time to time of all the Bonds without any priority of any Bonds over any other except as elsewhere herein expressly provided.

UPON THE TRUSTS and subject to the covenants and conditions hereinafter set forth.

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ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. Definitions. Capitalized terms defined in this Indenture and not required to be otherwise capitalized are used with the meanings, if any, ascribed thereto in the Loan Agreement or the Mortgage. Unless the context otherwise requires, the terms defined in this Article I and in the Recitals, Granting Clauses and succeeding Articles of this Indenture shall, for all purposes of this Indenture and of any Supplemental Indenture supplemental hereto, have the meanings in this Indenture specified, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined:

Accountant means an Independent certified public accountant or accountants retained by the Borrower.

Act means Minnesota Statutes, Chapter 462C, as amended, relating to the Senior Housing Project and Sections 469.152 through 469.1655, as amended, relating to the Child Care Center Project.

Additional Bonds means any Bonds issued pursuant to Article IV hereof.

Additional Payments means the payments required to be made by the Borrower by Section 4.3 of the Loan Agreement and Section 5.13 hereof.

Affiliate means any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

Alterations has the meaning assigned in Section 5.3 of the Loan Agreement.

Arbitrage Bonds means any obligation issued as part of an issue, any portion of the proceeds of which are intentionally or reasonably expected (at the time of issuance of the obligation) to be used to directly or indirectly acquire higher yielding investments, or to replace funds which were used to acquire higher yielding investments, and includes any modifications to such term made by the Code and Treasury Regulations after the Closing Date.

Assignment and Pledge Agreement means the Assignment and Pledge Agreement, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Assignment and Subordination of Management Agreement means the Assignment and Subordination of Management Agreement, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Audited Fiscal Year means a Fiscal Year for which the audit report and opinion referred to in Section 7.10(b) of the Loan Agreement have been completed.

Authorized Denominations means denominations of \$5,000 or any integral multiple thereof.

Balloon Indebtedness means any Indebtedness twenty-five percent (25%) or more of the original principal amount of which (A) is due in any twelve (12) month period; or (B) may, at the option of the holder thereof, be required to be redeemed, prepaid, or purchased directly or indirectly by the Borrower or otherwise paid in any twelve (12) month period; provided, that, in calculating the principal amount of such Balloon Indebtedness due or required to be redeemed, prepaid, purchased or otherwise paid in any twelve (12) month period, such principal amount shall be reduced to the extent that all or any portion of such amount is required to be amortized prior to such twelve (12) month period.

Beneficial Holder or Beneficial Owner means any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries); or (b) is treated as the owner of any Bonds for federal income tax purposes.

Board means the governing body of the Borrower or any duly authorized committee thereof.

Bond Counsel means Kutak Rock LLP, Minneapolis, Minnesota, or any attorney or firm of attorneys nationally recognized as experienced in matters relating to the tax-exempt financing of facilities of the same character as the Project, retained by the Borrower and acceptable to the Issuer.

Bond Purchase Agreement means a contract relating to the purchase of a series of Bonds between the Issuer, the Borrower, the Original Purchaser of such series of Bonds and such other Persons required to be a party thereto by the Original Purchaser of such series of Bonds. The Bond Purchase Agreement for the Series 2025A Bonds and the Series 2025A-T Bonds is dated _____, 2025.

Bond Register has the meaning given such term in Section 2.07 hereof.

Bond Registrar has the meaning given such term in Section 2.07 hereof.

Bond Resolution means (i) for the Senior Bonds, the resolution adopted by the City Council of the Issuer on March 17, 2025, authorizing the issuance and sale of the Senior Bonds and the Subordinate Bonds, as the same may be amended, modified or supplemented by any amendments or modifications thereof, and (ii) with respect to any Additional Bonds, the resolution to be adopted by the City Council of the Issuer authorizing the issuance and sale of such Additional Bonds, as the same may be amended, modified or supplemented by any amendments or modifications thereof.

Bond Year means for the Series 2025A Bonds and the Series 2025A-T Bonds, the twelve (12) month period beginning on _____ 1 in any year and ending on _____ [30] [31] of the following year; provided that the first Bond Year for the Series 2025A Bonds and the Series 2025A-T Bonds shall commence on the Closing Date of the Series 2025A Bonds and the Series 2025A-T Bonds and end on _____, 2026. For any series of Additional Bonds, the Bond Year means the period so designated in the Supplemental Indenture for the Additional Bonds.

Bondholder or Holder means a Person in whose name a Bond is registered in the Bond Register.

Bonds means all Bonds issued pursuant to this Indenture, including the Series 2025A Bonds, the Series 2025A-T Bonds, and any Additional Bonds.

Book-Entry Form means Bonds of any series that are held in the name of the Depository (or its nominee), with each maturity of the series evidenced by a single Bond certificate.

Book-Entry System means a system of record keeping, securities clearance and funds transfer and settlement maintained for securities by the Depository and Participants.

Borrower means Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company, its successors and assigns.

Borrower Certificate means a certificate signed by any officer of the Borrower and delivered to the Trustee.

Borrower Documents means the Loan Agreement, the Mortgage, the Continuing Disclosure Agreement, the Collateral Assignment of Architect's Contract, the Collateral Assignment of Design-Build Contract, the Disbursing Agreement, the Assignment and Subordination of Management Agreement, the Bond Purchase Agreement, and the BQ Fee Agreement.

Borrower Request, Borrower Order, or Borrower Consent means, respectively, a written request, order, or consent signed in the name of the Borrower by any officer of the Borrower and delivered to the Trustee.

Borrower Resolution means a resolution certified by an officer of the Borrower to have been duly adopted by the Board and to be in full force and effect on the date of such certification, and delivered to the Trustee.

Borrower Tax Certificate means the Tax Certificate of the Borrower and the Sole Member executed and delivered by the Borrower on the Closing Date of an issue of Tax-Exempt Bonds.

BQ Fee Agreement means the Bank Qualified Fee Agreement, dated as of April 1, 2025, between the Borrower and the Issuer, as may be amended and supplemented from time to time.

Business Day means any day other than a Saturday, Sunday or other day on which the Trustee's corporate trust office administering this Indenture is not open for business.

Capitalized Interest Fund means the fund created in Section 5.08 hereof.

Cash on Hand means for any period the quotient resulting from dividing (a) the Borrower's total unrestricted and unencumbered cash, cash equivalents, and marketable securities for such period, including amounts in the Working Capital Reserve Fund, but excluding amounts on deposit in the Debt Service Fund, Debt Service Reserve Fund, Repair and Replacement Reserve Fund, Tax and Insurance Fund, and Capitalized Interest Fund, by (b) the quotient resulting from dividing the total Project Operating Expenses (excluding depreciation and amortization expenses, unrealized losses on investments, extraordinary losses and expenses, and any other non-cash expense) for such period, by number of days in such period.

Child Care Center Project means the acquisition, construction, and equipping of a day care to be located on the Land. The Child Care Center Project will be owned and operated by the Borrower.

City means the City of Brainerd, Minnesota, a home rule charter city and political subdivision of the State.

Closing Date means the date of issuance of any series of Bonds. The Closing Date for the Series 2025A Bonds and Series 2025A-T Bonds is [April __], 2025.

Code means the Internal Revenue Code of 1986, as amended. All references to sections of the Code are to the sections thereof as they exist on the date of execution and delivery of this instrument.

Collateral Assignment of Architect's Contract means the Collateral Assignment of Architect's Contract, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Collateral Assignment of Design-Build Contract means the Collateral Assignment of Design-Build Contract, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Collateral Document means any written instrument, including, but not limited to, the Loan Agreement, this Indenture, the Senior Limited Guaranty, the Assignment and Pledge Agreement, the Assignment and Subordination of Management Agreement, the Subordination Agreement, the Collateral Assignment of Architect's Contract, the Collateral Assignment of Design-Build Contract and the Mortgage, whereby any property, interest in property or promise of any kind is granted, pledged, conveyed, assigned, or transferred to the Issuer or Trustee, or both, as security for payment of the Bonds or performance by the Borrower of its obligations under the Loan Agreement.

Completion Date means, with reference to the Project, the date specified in Section 3.3 of the Loan Agreement.

Construction Contract means any contract of the Borrower providing for the construction, equipping or installation of any part of the Project or any Improvement, including any amendment thereof made in accordance with the provisions thereof and of the Loan Agreement.

Construction Fund means the fund created in Section 5.03 hereof.

Continuing Disclosure Agreement means the Continuing Disclosure Agreement, dated as of April 1, 2025, between the Borrower and the Dissemination Agent, relating to the Senior Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

Contractor means a Person with whom the Borrower enters into a Construction Contract.

Costs of Issuance means any and all sums of money required to authorize, sell and issue the Bonds, including, but not limited to, all legal, abstracting, financial and accounting fees and expenses, underwriter's fees or commissions, printing and engraving costs, fees, costs and expenses of the Issuer, the fees, the initial or acceptance fee and expenses of the Trustee, all fees and taxes required in connection with recording or filing this Indenture, the Mortgage, any Collateral Document and all financing statements and all other expenses incurred in connection with the preparation of the Loan Agreement, this Indenture, the Mortgage, any Collateral Document, and any other documents, together with any other items of costs constituting "issuance costs" within the meaning of Section 147(g) of the Code.

Costs of Issuance Fund means the fund created in Section 5.04 hereof.

Debt Service Fund means the fund created in Section 5.05 hereof.

Debt Service Reserve Fund means the fund created in Section 5.06 hereof.

Defaulted Interest means interest installments or any part thereof on any Bond which is payable but not punctually paid or duly provided for on an Interest Payment Date, as further described in Section 2.09 hereof.

Defeasance Obligations means Government Obligations which are not subject to redemption in advance of their stated maturities.

Depository means The Depository Trust Company in New York, New York, its successors or assigns, or any other person who shall be a Holder of all Bonds of a single series, directly or indirectly for the benefit of Beneficial Owners, and approved by the Issuer and the Original Purchaser for the series to act as the Depository; provided that any Depository shall be registered or qualified as a “clearing agency” within the meaning of Section 17A of the Securities and Exchange Act of 1934, as amended.

Determination of Taxability means receipt by the Trustee of a statutory notice of deficiency by the Internal Revenue Service, a ruling from the National Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction which holds in effect that interest payable on any Tax Exempt Bonds is includable for federal income tax purposes in the gross income of a Beneficial Owner because of any act or omission of the Borrower (or any successor or transferee), the Sole Member, or of the Trustee; provided, however, that the Borrower shall have an opportunity for no more than one hundred eighty (180) days after receipt by the Trustee to contest any such statutory notice, ruling or final decision and that no such statutory notice, ruling or final decision shall be deemed a “Determination of Taxability” if the Borrower is contesting the same during such one hundred eighty (180) day period in good faith until the earliest of (a) abandonment of such contest by the Borrower, (b) the date on which such statutory notice, ruling or final decision becomes final, or (c) the first day following the one hundred eighty (180) day period after the initial receipt by the Trustee of such statutory notice, ruling or final decision; and provided further that no Determination of Taxability shall arise from the interest on the Tax-Exempt Bonds being included (1) in income for purposes of calculating alternative minimum taxable income of any taxpayer; (2) in earnings and profits of branches of foreign corporation for purposes of calculating the “branch profits tax”; (3) within gross income to certain recipients of social security or railroad retirement benefits; or (4) as passive investment income to certain subchapter S corporations which have subchapter C earnings and profits.

Determination Period has the meaning given such term in Section 6.4(b) of the Loan Agreement.

Disbursing Agreement means the Disbursing Agreement, dated as of April 1, 2025, between the Borrower, the Trustee, and the Title Company, as the same may be amended or supplemented from time to time.

Disbursement Request means a request for an advance from the Construction Fund substantially in the form attached to the Disbursing Agreement.

Dissemination Agent means U.S. Bank Trust Company, National Association, its successors and assigns.

DTC means The Depository Trust Company, New York, New York.

Electronic Notice means a notice transmitted through a time-sharing terminal, facsimile machine or the Internet, as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message, if operative as between any two parties, for which a transmission confirmation has been received by the sender and which is confirmed in writing within twenty-four (24) hours (with an

automatic “read receipt” or similar notice not constituting confirmation of an email receipt for purposes of this this definition).

EMMA means the Electronic Municipal Market Access system established by the Municipal Securities Rulemaking Board (the “MSRB”) with the support of the Securities and Exchange Commission, which can be accessed on the date hereof at www.emma.msrb.org or any successor system established by the MSRB.

Environmental Laws means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to or governing the generation, handling, labeling, storage, transport or disposal of Hazardous Substances.

Event of Default means any event defined as such in Section 7.01 hereof or Section 9.1 of the Loan Agreement.

Fiscal Year means the period commencing on October 1 of any year and ending on September 30 of the following year, or any other twelve (12) month period specified in a Borrower Resolution as the fiscal year of the Borrower.

GAAP means the generally accepted accounting principles for nonprofit organizations, consistently applied.

Government Obligations means:

(a) direct general obligations of, or obligations the prompt payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America;

(b) repurchase agreements or similar financial transactions the payment of principal of and interest on which are fully secured by obligations of the type described in clause (a) or (c) of this definition: (i) which collateral (A) is held by the Trustee during the all or a portion of the term of the instrument which such collateral secures, (B) is not subject to liens or claims of any third parties, and (C) has a market value (determined at least once every six months at the lower of the then current market value thereof or the repurchase price thereof set forth in the applicable repurchase agreement) at least equal to the amount so invested; and (ii) provided that each such repurchase agreement (A) is in commercially reasonable form, (B) is for a commercially reasonable period, and (C) results in the transfer of legal title to identified Government Obligations which are segregated in a custodial or trust account for the benefit of the Trustee;

(c) bonds, notes or other debt obligations issued by a state or a political subdivision or municipal corporation thereof which are payable in whole from an escrow or similar fund or account containing only cash and/or obligations of the type described in clause (a) above;

(d) certificates or other evidence of ownership of principal to be paid or interest to accrue on a pool of securities of the type described in clause (a) above, which securities are held in the custody of a bank or trust company acceptable to the Trustee in a special account separate from the general assets of such custodian;

(e) shares of an investment company registered under the Investment Company Act of 1940, and whose only investments are in securities described in clause (a) above; and

(f) certificates of deposit or time deposits which are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Gross Revenues means total operating revenues of the Borrower, but excluding unrealized gains and losses on investments, and any extraordinary or non-recurring items, as determined in accordance with GAAP.

Hazardous Substances means any dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, and/or the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.(C) § 6901 et seq. and 42 U.S.(C) § 9601 et seq.), as amended, or any other Environmental Laws, and also including urea-formaldehyde, polychlorinated biphenyls, dioxin, radon, asbestos, asbestos containing materials, nuclear or radioactive fuel or waste, infectious waste, and petroleum, including but not limited to crude oil or any fraction thereof, natural gas, natural gas liquids, gasoline and synthetic gas, or any other waste, substance, pollutant or contaminant which would subject the owner of the Land to any damages, penalties or liabilities under any applicable law, statute, code, ordinance, regulation, requirement or rule.

Improvements or Improvement mean any addition, enlargement, improvement, extension or alteration of or to the Project or Related Facilities as they then exist.

Indebtedness means, without duplication, (i) all indebtedness, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed; (ii) all indebtedness for the payment of the purchase price of property or assets purchased; (iii) all guaranties or other similar instruments in the nature of a borrowing by which the obligor will be unconditionally obligated to pay; (iv) all guaranties, endorsements, assumptions and other contingent obligations with respect to, or to purchase or to otherwise acquire, indebtedness of others; (v) all indebtedness secured by any mortgage, pledge or lien existing on property owned, subject to such mortgage, pledge or lien, whether or not the indebtedness secured thereby shall have been assumed; and (vi) installment purchase contracts, loans secured by purchase money security interests, lease-purchase agreements or capital leases (including leases of real property), entered into by the Borrower in connection with the acquisition of property not previously owned by the Borrower, all of the foregoing computed in accordance with GAAP; provided, however, that “Indebtedness” does not include (a) debt up to the amount of the aggregate cash equivalents and marketable securities (valued at market) held in the funds of the Borrower which have been irrevocably pledged and designated by the Borrower (consistent with the restriction attendant to such funds) to satisfy a specified debt of the Borrower; (b) unsecured borrowings from any Affiliate of the Borrower that is subordinate to all other Indebtedness; (c) trade accounts payable and accrued expenses incurred in the normal course of business; or (d) subordinated indebtedness subject to a written subordination agreement. For purposes of this definition no single evidence of indebtedness shall be counted more than once even though more than one (1) of the clauses (i) through (v) above may apply.

Indemnified Parties has the meaning given such term in Section 7.7(a) of the Loan Agreement.

Indenture means this Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee, as the same may from time to time be amended or supplemented in accordance with the provisions hereof.

Independent when used with respect to any specified Person, means such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the Borrower or any Affiliate, other than the payment to be received under a contract for services to be

performed by such Person; and (iii) is not connected with the Borrower or any Affiliate as an official, officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions. Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished to the Trustee, such Person shall be appointed by the Issuer, the Borrower or the Trustee, as the case may be.

Insurance Consultant means any Person retained by the Borrower experienced in matters relating to the insurance of facilities of the same character as the Project.

Insurance Subsidiary means any corporation which controls or is controlled by the Borrower or which is an Affiliate of a corporation which controls the Borrower and which is in the business of providing insurance coverage to the Borrower.

Interest Payment Date means, for all Series 2025A Bonds and Series 2025A-T Bonds, May 1 and November 1 of each year, commencing November 1, 2025.

Interim Indebtedness means any Indebtedness incurred, assumed or guaranteed by the Borrower on an interim basis to provide temporary financing as permitted by the Loan Agreement.

Issuer means the City and any successor to its functions hereunder and any successor to its functions hereunder.

Issuer Certificate means a certificate signed by the Mayor or the City Administrator of the Issuer, or other officer of the Issuer specified in an Issuer Resolution, and delivered to the Trustee.

Issuer Request, Issuer Order, or Issuer Consent means, respectively, a written request, order or consent of the Issuer, signed by the Mayor or the City Administrator of the Issuer, or other officer of the Issuer designated by an Issuer Resolution, and delivered to the Trustee.

Issuer Resolution means a resolution or other appropriate enactment by the governing body of the Issuer certified by an appropriate officer of the Issuer to have been duly adopted by the Issuer and to be in full force and effect on the date of adoption of such resolution.

Issuer's Unassigned Rights means the following rights of the Issuer under the Loan Agreement: (i) to reliance on the representations of the Borrower under Section 2.2; (ii) to its portion of the Additional Payments under Sections 4.3(a), 4.4, 4.5, and 4.6; (iii) to reports and other information by the Borrower under Sections 7.10, 7.11(j), and 11.9; (iv) to indemnification under Sections 7.7 and 11.8; (v) to release under Section 7.2; (vi) to legal expenses under Section 9.11; and (vii) to enforcement of payment of Make Whole Payments under Section 9.13; provided, however, that any rights, benefits and interests inuring to the benefit of the Trustee (either directly or by assignment of the Loan Agreement) pursuant to any of the foregoing sections shall not constitute Issuer's Unassigned Rights; and further provided, however, that the Issuer also retains any other rights, benefits and interests that, but their terms do not inure to the benefit of the Trustee, for example, without limitation, rights to receive notices.

Land means the real estate described in Exhibit A attached to the Mortgage on which the property financed by the proceeds of the Series 2025A Bonds and the Series 2025A-T Bonds is located, and any additional real estate or undivided interest therein which may be included within the lien of the Mortgage pursuant to Article IV of the Mortgage, but excluding any real estate released from the lien of the Mortgage pursuant to the terms thereof or of the Loan Agreement.

Letter of Credit means an irrevocable direct pay letter of credit in the amount of \$1,500,000 delivered by Bremer Bank, National Association in favor of the Trustee, or any successor thereto delivered to the Trustee in compliance with Section ___ of this Indenture.

Letter of Representations means the Blanket Issuer Letter of Representations between the Depository and the Issuer and any amendments or supplements thereto.

Senior Limited Guaranty means the Senior Limited Guaranty Agreement, dated as of April 1, 2025, by the Sole Member in favor of the Trustee, as the same may be amended or supplemented from time to time.

Liquidity Covenant has the meaning in Section 7.9(b) of the Loan Agreement.

Loan means the loan by the Issuer to the Borrower of the proceeds of the Bonds, exclusive of any accrued interest paid by the Original Purchaser of the Bonds upon the delivery thereof, but including the underwriting discount, if any, in connection with the sale of Bonds by the Issuer to the Original Purchaser.

Loan Agreement means the Loan Agreement, dated as of April 1, 2025, between the Issuer and the Borrower, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Loan Repayment means a Loan Repayment required to be made by the Borrower with respect to the Bonds.

Loan Repayment Date means a date on which a Loan Repayment is due pursuant to Section 4.2 of the Loan Agreement.

Long-Term Indebtedness means Indebtedness of the Borrower other than Short-Term Indebtedness (except as provided in Section 6.2 of the Loan Agreement).

Majority of Bondholders means the Holders of more than fifty percent (50%) of Outstanding Bonds.

Make Whole Payments means any payments required to be made to or on behalf of the Issuer under the Issuer's Unassigned Rights.

Management Agreement means the Management Services Agreement, dated December 30, 2024, between the Borrower and the Manager, and any other successor contract providing for management services of the Project, as the same may be amended from time to time in accordance with the terms of the Loan Agreement.

Management Consultant means a Person qualified to study operations of independent and assisted living facilities and having a favorable reputation for skill and experience in such work and, unless otherwise specified in the Loan Agreement, retained by the Borrower.

Management Fees means compensation paid to the Manager for management of the Project, exclusive of reimbursement for costs paid by the Manager which otherwise constitute Project Operating Expenses; provided, however, that information technology fees payable to Sole Member are not Management Fees.

Manager means Continuums Management Services LLC, or any person performing management services for the Project under the Management Agreement.

Maturity, when used with respect to any Bond, means the date on which the principal of such Bond becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

Mortgage means the Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may from time to time be amended or supplemented in accordance with the provisions thereof and hereof.

Mortgaged Property has the meaning given such term in the Mortgage.

Net Proceeds, when used with respect to any insurance claim or condemnation award, means the gross proceeds from such insurance claim or condemnation award remaining after payment of all expenses (including attorneys' fees and any expenses of the Issuer, the Borrower and the Trustee) incurred in the collection of such gross proceeds.

Net Revenues Available for Debt Service means Gross Revenues for a specified period, whether historic or projected, less total Project Operating Expenses for the same specified period, whether historic or projected, excluding [(i) extraordinary gains and losses; (ii) unrealized gains and losses on investments;] and (iii) losses on unamortized discount and financing expenses, as determined in accordance with GAAP, but including the amount of all (a) depreciation, amortization and interest expense which has been included in total Project Operating Expenses; and (b) other non-operating income and contributions available for debt service, all for the same specified period.

Opinion of Counsel means a written opinion of legal counsel, who may (except as otherwise specifically provided in the Loan Agreement or this Indenture) be counsel for the Issuer or the Borrower.

Optional Redemption Fund means the fund created in Section 5.07 hereof.

Original Purchaser means, with respect to the Series 2025A Bonds and the Series 2025A-T Bonds, Colliers Securities LLC and any successor thereto and with respect to Additional Bonds, the original purchaser or underwriter of such series of Additional Bonds.

[Other Indebtedness] means **Indebtedness of the Borrower described in clause (iii) of the definition of Indebtedness but shall not include any item of Indebtedness which is also Short-Term Indebtedness or Interim Indebtedness or allowed to be treated as Short-Term Indebtedness or Interim Indebtedness under the Loan Agreement.]**

Outstanding, when used with reference to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Indenture, except:

- (i) Bonds theretofore canceled by the Trustee or delivered to the Trustee canceled or for cancellation;
- (ii) Bonds defeased in accordance with the terms of this Indenture; and
- (iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Indenture;

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer, the Borrower or any Affiliate shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Bonds which the Trustee actually knows to be so owned shall be disregarded.

Participants means persons who are designated as participants of the Depository in connection with the operation of a Book-Entry System.

Permitted Encumbrances means those encumbrances set forth in the Mortgage.

Person means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Plans and Specifications means the plans and specifications for the construction work included in the Project, if any, to be approved by the Borrower and available for inspection by the Trustee, as the same may be modified from time to time in accordance with the provisions of Section 3.2 of the Loan Agreement.

Pledged Equipment means any personalty used in the operation of the Project and any substitutions or replacements thereof, subject only to superior liens on personalty allowed under Section 5.4 of the Loan Agreement and Permitted Encumbrances.

Principal and Interest Requirements on Long-Term Indebtedness means, for any Fiscal Year, the amount required to pay the interest on and the principal of Long-Term Indebtedness becoming due in such Fiscal Year, excluding “funded interest” from the proceeds of Indebtedness; subject to any adjustment required in respect to principal requirements for debt described in the definition of “Balloon Indebtedness” or in the event that the option described in Section 6.4(c) of the Loan Agreement is exercised.

Principal Payment Date means the Stated Maturity of principal of any Bond and the Sinking Fund Payment Dates for Term Bonds; the Principal Payment Dates for the Series 2025A Bonds and the Series 2025A-T Bonds shall be May 1 of the years set forth in Sections 3.04 and 3.05(C) hereof, and for any Additional Bonds, the dates established for the regularly scheduled payment of principal thereon in any Supplemental Indenture for the Additional Bonds. The Principal Payment Dates shall always be on May 1.

Prior Taxable Debt means the loan to Sole Member by _____ in the principal amount of \$ _____. Proceeds of the Prior Taxable Debt were used to finance the acquisition of the Land.

Project means the Senior Housing Project and the Child Care Project.

Project Buildings means all Related Facilities, Improvements or buildings now or hereafter located on the Land, as the same may be improved or expanded from time to time, and including all related building service equipment and other fixtures incorporated therein or attached thereto.

Project Operating Expenses means for any period of calculation all non-capitalized expenses incurred in the operation of the Project, including Management Fees, including the aggregate of all operating expenses of the Borrower, calculated in accordance with GAAP.

Qualified Investments means those obligations and securities set forth in Section 5.14 hereof, in which Trust Money may be invested.

Qualified Project Costs means, with reference to the Project, any and all sums of money required to acquire, construct and install the Project (excluding Costs of Issuance) but including the following:

- (a) the expense of preparation of the Plans and Specifications and of all other architectural, engineering, testing and supervisory services incurred and to be incurred in the planning, construction and completion of the Project;
- (b) the cost of acquisition and installation of all items of fixtures and personalty included in the Project;
- (c) the contract price of all labor, services, materials, supplies, equipment and remodeling furnished under a Construction Contract;
- (d) all expenses incurred in seeking to enforce any remedy against a Contractor, any subcontractor or any surety in respect of any default under any Construction Contract;
- (e) the cost of all other labor, services, materials, supplies and equipment necessary to complete the acquisition, construction and installation of the Project; and
- (f) without limitation by the foregoing, all other expenditures (other than Costs of Issuance) which under generally accepted accounting principles constitute necessary capital expenditures for the Project.

Rating Agency means Moody's Investors Service, Inc., S&P Global Ratings, Fitch Ratings Inc., or other national rating agency, or any of them.

Rebate Fund means the fund created in Section 5.10 hereof.

Record Date means the fifteenth day (whether or not a Business Day) of the calendar month immediately preceding each Interest Payment Date.

Redemption Date, when used with respect to any Bond to be redeemed, means the date on which it is to be redeemed pursuant to this Indenture.

Redemption Price, when used with respect to any Bond to be redeemed, means par plus accrued interest plus any premium required to be paid upon redemption pursuant to this Indenture.

Related Facilities means any structures, buildings or other facilities hereinafter acquired or constructed by the Borrower and located on the Land (excluding the Project) or a parcel of land immediately adjacent to the Land and such parcel(s) becomes subject to the lien of the Mortgage, and used, directly or indirectly, for independent living, skilled nursing, assisted living or memory care purposes.

Repair and Replacement Reserve Fund means the fund created in Section 5.09 hereof.

Reserve Requirement means (a) with respect to the Series 2025A Bonds, \$ _____; [and] (b) [with respect to the Series 2025A-T Bonds, \$ _____; and (c)] with respect to a series of Additional Bonds, such additional amounts as are required under Section 4.01 hereof upon the issuance of Additional Bonds. The Reserve Requirement for any Additional Bonds may be satisfied by a combination of one (1) or more of the following: a deposit of cash or Qualified Investments, the proceeds of Bonds or a guaranty of payment and deposit of the Reserve Requirement as determined in the sole discretion of the Original Purchaser for any series of Additional Bonds in accordance with Section 4.01 hereof.

Responsible Officer, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers, and shall also mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

Senior Bonds means the Series 2025A Bonds and the Series 2025A-T Bonds.

Senior Housing Project means the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on the Land. The Senior Housing Project will be owned and operated by the Borrower.

Serial Bonds means Bonds which are not Term Bonds.

Series 2025A Bonds means the Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A, issued by the Issuer in the original aggregate principal amount of \$[Par A] under and secured by the Indenture.

Series 2025A-T Bonds means the Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T, issued by the Issuer in the original aggregate principal amount of \$[Par A-T] under and secured by the Indenture.

Series 2025B Bonds or Subordinate Bonds means the Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B, issued by the Issuer in the original aggregate principal amount of \$[Par B] under and secured by the Subordinate Indenture.

Short-Term Indebtedness means any Indebtedness incurred, assumed or guaranteed by the Borrower maturing not more than three hundred sixty-five (365) days after it is incurred and not by its terms renewable or extendable at the option of the Borrower, but shall not include Interim Indebtedness, Other Indebtedness, trade accounts payable, accrued payroll or payroll taxes.

Sinking Fund Payment Date means the dates set forth in Section 3.05(C) hereof (as to the Series 2025A Bonds and Series 2025A-T Bonds) or any applicable provision of a Supplemental Indenture (as to any series of Additional Bonds) for the making of mandatory principal payments for Term Bonds.

Sole Member means The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and a Tax-Exempt Organization, its successors and assigns.

Special Record Date has the meaning set forth in Section 2.09 hereof.

State means the State of Minnesota.

Stated Maturity when used with respect to any Bond, means the date specified in such Bond as the fixed date on which the entire Outstanding principal amount of such Bond is due and payable.

Subordination Agreement means the Subordination Agreement, dated as of April 1, 2025, between the Trustee, in its capacity as trustee for the Senior Bonds, U.S. Bank Trust Company, National Association, in its capacity as trustee for the Subordinate Bonds, and the Borrower as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Subordinate Indebtedness means the Subordinate Bonds and any Additional Bonds issued under the Subordinate Indenture.

Subordinate Indenture means the Subordinate Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee, relating to the Series 2025B Bonds and any additional bonds issued thereunder, as it may be amended from time to time.

Subordinate Loan Agreement means the Subordinate Loan Agreement, dated as of April 1, 2025, between the Issuer and the Borrower, relating to the loan of the proceeds of the Series 2025B Bonds, as it may be amended from time to time.

Supplemental Indenture means any indenture supplemental to this Indenture entered into pursuant to Article X hereof.

Taxes and Insurance Escrow Fund means the fund created in Section 5.12 hereof.

Tax-Exempt Bonds means the Series 2025A Bonds and any Additional Bonds or Indebtedness issued as obligations the interest on which is intended to be excluded from gross income for federal income tax purposes.

Tax-Exempt Organization means an organization described or treated as described in Section 501(c)(3) of the Code whose income is exempt from taxation under Section 501(a) of the Code, or any successor provisions.

Term Bonds means those Bonds of a single Stated Maturity in a principal amount which this Indenture or any Supplemental Indenture provides must be redeemed prior to their Stated Maturity from sinking fund payments the Loan Agreement requires the Borrower to make for such purpose.

Title Company means Guaranty Commercial Title, Inc., a Minnesota corporation, its successors and assigns.

Treasury Regulations means the Treasury Regulations promulgated under the Code.

Trust Estate has the meaning specified in the Granting Clauses of this Indenture.

Trust Funds mean all of the funds and accounts created pursuant to this Indenture, except the Rebate Fund.

Trust Money has the meaning stated in Section 5.01 hereof.

Trustee means U.S. Bank Trust Company, National Association, Saint Paul, Minnesota, and any successor Trustee under this Indenture.

UCC means the Uniform Commercial Code in effect in the State.

Unrelated Improvements means any fixtures, structures, land or other facilities, including any machinery, equipment or fixtures necessary in connection therewith, acquired or constructed by the Borrower not on the Land but on land in the City which becomes subject to the lien of the Mortgage.

Variable Rate Indebtedness means any portion of Indebtedness the interest rate on which varies periodically such that the interest rate at a future date cannot accurately be calculated.

Working Capital Fund means the fund created in Section 5.11 hereof.

Section 1.02. Construction. For all purposes of this Indenture, except as otherwise expressly provided or unless the context clearly otherwise requires:

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

(B) The words “herein,” “hereof,” and “hereunder,” and other words of similar import, without reference to any particular Article, Section or subdivision, refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(C) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP.

(D) All computations herein provided for shall be made in accordance with GAAP.

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ARTICLE II

THE BONDS

Section 2.01. Title. The title of each of the Series 2025A Bonds and the Series 2025A-T Bonds is set forth in Section 3.01 hereof, and the title of each series of Additional Bonds shall be specified in a Supplemental Indenture.

Section 2.02. General Limitations; Issuable in Series.

(A) The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Indenture is not limited, except as provided in Articles III and IV hereof and except as may be limited by law.

(B) The Bonds may be issued in such series as from time to time are authorized by an Issuer Resolution.

(C) The Bonds are special, limited obligations of the Issuer. Principal of, premium, if any, and interest on the Bonds are payable solely out of the revenues derived from the Loan Agreement (other than to the extent payable out of proceeds of the Bonds, amounts in the Trust Funds, Net Proceeds, or from funds realized from the sale or other disposition of the Mortgaged Property or under the terms of any Collateral Document). Neither the Issuer nor the State shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer. Neither the Bonds nor any of the agreements or obligations of the Issuer contained herein or in the Loan Agreement shall be construed to constitute an indebtedness of the State or the Issuer within the meaning of any constitutional or statutory provisions whatsoever. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer and the Bonds are not secured by a pledge of the full faith and credit or taxing power of the Issuer, the State or any political subdivision thereof. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

(D) With respect to the Bonds of any particular series, the Issuer may incorporate in or add to the general title of such Bonds any words, letters or figures designed to distinguish that series. Unless otherwise provided with respect to any particular series of Bonds, the Bonds of each series shall be dated as of their date of authentication.

(E) If the Stated Maturity of any Bond or if any Interest Payment Date, Redemption Date or Sinking Fund Payment Date shall not be a Business Day, then the payment of principal, premium, or interest due on such date may be made on the next succeeding Business Day, with the same force and effect as if made on the Stated Maturity, Interest Payment Date, Redemption Date or Sinking Fund Payment Date, and without additional interest accruing thereon for the period after such Stated Maturity, Interest Payment Date, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

Section 2.03. Terms of Particular Series. Each series of Bonds (except the Series 2025 Bonds, which are created by Article III hereof) shall be created by a Supplemental Indenture authorized by an Issuer Resolution. The Bonds of each series (other than the Series 2025 Bonds, as to which specific provision is made in this instrument) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Indenture creating that series. The Issuer may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain, provision for:

- (A) a sinking, amortization, improvement or other analogous fund;
- (B) limiting the aggregate principal amount of the Bonds of that series; and/or
- (C) exchanging Bonds of that series, at the option of the Holders thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind and/or authorized denomination or denominations;

all upon such terms as the governing body of the Issuer may determine by Issuer Resolution. All Bonds of the same series shall be substantially identical except as to denomination, the differences specified herein or in a Supplemental Indenture between interest rates, Stated Maturities and redemption provisions.

Section 2.04. Form and Denominations.

(A) The form of the Bonds of each series (other than the Series 2025 Bonds, as to which specific provisions are made in this instrument) shall be established by the provisions of the Supplemental Indenture creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the governing body of the Issuer may determine by Issuer Resolution.

(B) The Bonds of each series shall be issuable in fully registered form in such denominations as shall be provided in the provisions of the Supplemental Indenture creating such series (other than the Series 2025 Bonds, as to which specific provisions are made in this instrument). In the absence of any other provision with respect to the Bonds of any particular series, the Bonds of such series shall be in Authorized Denominations.

Section 2.05. Execution, Authentication and Delivery.

(A) Each Bond shall be executed on behalf of the Issuer by the officers of the Issuer specified in an Issuer Resolution. The signature of any Issuer officer may be manual or facsimile, if permitted by applicable law. The seal of the Issuer may be omitted, if permitted by applicable law.

(B) Bonds bearing the signatures of individuals who were at any time the proper officers of the Issuer shall bind the Issuer, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Bonds or did not hold such offices at the date of such Bonds.

(C) At any time and from time to time after the execution and delivery of this Indenture, the Issuer may deliver Bonds executed by the proper officers of the Issuer to the Trustee for authentication, and the Trustee shall authenticate and deliver such Bonds as in this Indenture provided and not otherwise.

(D) No Bond shall be secured by, or entitled to any lien, right or benefit under, this Indenture or be valid or obligatory for any purpose, unless there appears on such Bond either the manual signature of at least one (1) officer of the Issuer or a certificate of authentication substantially in the form provided for herein executed by a representative of the Trustee by manual signature, and such certificate or manual signature of at least one (1) officer of the Issuer upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly authenticated and/or delivered hereunder. Authentication certificates on different Bonds need not be signed by the same representative of the Trustee.

Section 2.06. [Reserved].

Section 2.07. Registration, Transfer and Exchange.

(A) The Issuer shall cause to be kept at the principal corporate trust office of the Trustee a register (the “Bond Register”) in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Bonds of all series and of transfers of Bonds of all series. The Trustee is hereby appointed bond registrar, authenticating agent paying agent and transfer agent for the Bonds (the “Bond Registrar”) for the purpose of registering Bonds and transfers of Bonds as herein provided.

(B) Upon surrender for transfer of any Bond at the office of the Bond Registrar, the Issuer shall execute, and the Trustee shall authenticate, if required, and deliver, in the name of the designated transferee or transferees, one (1) or more new Bonds of the same series, of any authorized denomination or denominations, of like aggregate principal amount and having the same Stated Maturity and interest rate.

(C) At the option of the Holder, Bonds may be exchanged upon surrender thereof at the principal corporate trust office of the Trustee, for other Bonds of the same series, Stated Maturity and interest rate of a like aggregate principal amount and redemption privilege, of any authorized denomination or denominations, as requested by the Holder surrendering the same. The appropriate officials of the Issuer will execute, and the Trustee shall authenticate, if required, and deliver, Bonds required for any such exchange.

(D) All Bonds surrendered upon any exchange or transfer provided for in this Indenture shall be promptly canceled by the Trustee and thereafter disposed of in accordance with Section 2.11 hereof.

(E) All Bonds issued upon any transfer or exchange of Bonds shall be the valid obligations of the Issuer evidencing the same debt, and entitled to the same security and benefits under this Indenture, the Loan Agreement, the Mortgage and any Collateral Document, as the Bonds surrendered upon such transfer or exchange.

(F) Every Bond presented or surrendered for transfer or exchange shall (unless the requirement is waived by the Issuer and the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Bond Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing.

(G) No service charge shall be made for any registration, transfer or exchange herein provided for, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of the Bonds, other than exchanges under Section 3.05 hereof not involving any transfer.

(H) The Issuer shall not be required (i) to issue, transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing a notice of redemption of Bonds selected for redemption and ending at the close of business on the day of such mailing; or (ii) to transfer or exchange any Bond selected for redemption in whole or in part.

(I) Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.08. Mutilated, Destroyed, Lost and Stolen Bonds.

(A) If (i) any mutilated Bond is surrendered to the Trustee, or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Bond and (ii) there is delivered to the Trustee such security or indemnity as may be required by the Trustee to save the Issuer, the Trustee and the Borrower harmless, then, in the absence of notice to the Trustee that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and upon its request the Trustee shall authenticate, if required, and deliver, in exchange for or in lieu of such mutilated, destroyed, lost or stolen Bond, a new Bond of the same series and of like tenor, principal amount, Stated Maturity and interest rate.

(B) In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Bond, pay such Bond.

(C) Upon the issuance of any new Bond under this Section 2.08, the Trustee or the Issuer, as the case may be, may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee and the Issuer) connected therewith.

(D) Every new Bond issued pursuant to this Section 2.08 in lieu of any destroyed, lost or stolen Bond shall constitute an original additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture, the Loan Agreement, the Mortgage, and any Collateral Document equally and proportionately with any and all other Bonds hereby secured.

(E) The provisions of this Section 2.08 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds.

Section 2.09. Payment of Principal and Interest; Payment Rights Preserved.

(A) Interest on any Bond which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Holder at the close of business on the Record Date for such interest.

(B) Defaulted Interest shall forthwith cease to be payable to the Holder on the relevant Record Date by virtue of having been such Holder; and such Defaulted Interest shall be paid to the Holder at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner (a "Special Record Date"). The Borrower shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Borrower shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such

money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Section provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) or less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Borrower of such Special Record Date and, in the name and at the expense of the Borrower, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Bondholder at his address as it appears in the Bond Register, not less than ten (10) days prior to such Special Record Date. The Trustee may, in its discretion, in the name and at the expense of the Borrower, cause a similar notice to be published in a newspaper, but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Holder on such Special Record Date.

(C) Payment of the principal of and premium, if any, on any Bonds when due, whether upon maturity, redemption, acceleration or otherwise, will be made to the Bondholder at the principal trust office of the Trustee upon presentation and surrender of the Bonds to be paid; provided, however, presentation shall not be required in connection with any sinking fund payments. Payment of interest on any Bond will be made to a Bondholder without the necessity of surrendering the Bond on which payment is being made (i) by check mailed by first-class mail by the Trustee to the Bondholder at the address of the Bondholder shown in the registration books maintained by the Trustee; or (ii) by wire transfer to any bank in the continental United States for a Bondholder of \$1,000,000 or more in aggregate principal amount of Bonds who, by written request delivered to the Trustee no later than the Record Date for the payment, has requested the Trustee to make any payments of interest due to it by wire transfer at a specified wire transfer address (which request needs to be given only once unless the Bondholder wishes to change the wire transfer address). All payments of the principal of, premium, if any, and interest on any Bonds will be made in lawful money of the United States of America.

Section 2.10. Persons Deemed Owners. The Issuer, the Trustee and any other agent of the Issuer may treat the Holder of such Bond for the purpose of receiving payment of principal of (and premium, if any), and interest on, such Bond and for all other purposes whatsoever whether or not such Bond be overdue, and neither the Issuer, the Trustee nor any other agent of the Issuer shall be affected by notice to the contrary.

Section 2.11. Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange shall be promptly canceled. The Issuer or the Borrower may at any time deliver to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder which the Issuer or the Borrower may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled and destroyed by the Trustee in accordance with its then current record retention policy and a certificate of destruction furnished to the Issuer upon written request.

Section 2.12. Book-Entry System. The Bonds shall be initially issued in Book-Entry Form by delivering to the Depository one (1) typed executed and authenticated Bond for each stated maturity of the each series of the Bonds, registered to Cede & Co., and by entering into the Letter of Representations, if not previously entered into. While the Bonds remain issued in Book-Entry Form, the provisions of this Indenture which conflict with the operation of the Book-Entry System shall not apply, and the provisions of the Letter of Representations and the Operational Arrangements referenced therein relating to such Book-Entry System and the following provisions shall prevail.

(A) Registration, Recording and Transfer of Ownership. The Depository (or its nominees) shall be and remain recorded on the registration records maintained by the Trustee as the Holder of all

Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from a Depository to another (or its nominee) or except to terminate the Book-Entry Form. All Bonds of each series and stated maturity in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of the Depository (or its nominee); provided, however, that upon termination of the Book-Entry Form with respect to any series of Bonds pursuant to the Letter of Representations or as otherwise directed by written notice from the Borrower to the Issuer, Trustee and Depository, the Issuer shall, upon delivery of all Bonds of the series from the Depository, promptly execute, and the Trustee shall thereupon authenticate and deliver, Bonds to all persons who were Beneficial Owners thereof immediately prior to such termination; and the Trustee shall register such Beneficial Owners as Holders of the applicable Bonds. The Trustee, as bond registrar and paying agent, shall maintain accurate books and records of the principal balance, if any, of each such Outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a Predecessor Bond, the Trustee shall designate thereon the principal balance remaining on such Bond according to the Trustee's books and records.

(B) Notices. The Trustee shall give notice to the Depository of such matters and at such times as are required by the Depository and the Letter of Representations in connection with the Bonds. All notices of any nature required or permitted under this Indenture to be delivered to a Holder of a Bond in Book-Entry Form shall be transmitted to Beneficial Owners of such Bonds at such times and in such manner as shall be determined by the Depository and the Participants in accordance with the Book-Entry System and Letter of Representations.

(C) Payments. All payments of principal and purchase price of, premium, if any, and interest on Bonds while in Book-Entry Form shall be paid to the Depository in accordance with the Book-Entry System and Letter of Representations in same day funds by wire transfer. All payments of principal and purchase price of, premium, if any, and interest on any Bonds in Book-Entry Form due Beneficial Owners shall be made at such times and in such manner as shall be determined by the Depository and the Participants in accordance with the Book-Entry System and Letter of Representations.

(D) Limitations on Liability. With respect to Bonds in Book-Entry Form, and any Beneficial Owners thereof, except as expressly provided to the contrary in this Indenture, the Issuer and the Trustee shall have no responsibility, liability or obligation of any nature whatsoever with respect to (i) the non-payment to any Beneficial Owner or any other person, other than the Depository, of any amount due for principal or interest; (ii) the failure to give any notice or other information to the applicable Beneficial Owner; (iii) the inaccuracy of the records of the Depository or any Participant; or (iv) the failure in any manner of the Depository or any Participant to timely or properly comply with procedures or requirements of the Book-Entry System. No such payment, failure or inaccuracy shall cause an Event of Default under the Indenture.

Section 2.13. Termination of Book-Entry Only System. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Borrower, the Trustee and the Issuer and discharging its responsibilities with respect thereto under applicable law. The Borrower may terminate the services of DTC with respect to the Bonds, with the prior written consent of the Issuer, if it determines that DTC is no longer able to carry out its functions as security depository as contemplated in this Indenture.

Upon the termination of the services of DTC as provided in the preceding paragraph, the Borrower shall take all reasonable and diligent steps as may be necessary to find an alternate book-entry depository, but if (and only if) no such substitute securities depository willing to undertake the functions of DTC under this Indenture can be found which, in the opinion of the Borrower, is willing and able to undertake such functions upon reasonable or customary terms, then the Bonds shall no longer be

restricted to being registered in the Bond Register in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owner shall designate at that time, in accordance with Section 2.07 hereof. To the extent that the Beneficial Owners are designated as the transferee by the Owner, in accordance with Section 2.07 the Bonds will be delivered in appropriate form, content and Authorized Denomination to the Beneficial Owners.

ARTICLE III

THE SERIES 2025A BONDS AND SERIES 2025A-T BONDS

Section 3.01. Specific Title and Terms of the Senior Bonds. There is hereby created and there shall be two (2) series of Bonds entitled (i) “Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A,” and (ii) “Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T.” The Series 2025A Bonds shall be substantially in the form set forth in EXHIBIT A attached hereto and the Series 2025A-T Bonds shall be substantially in the form set forth in EXHIBIT B. Both series of Bonds created hereunder shall be dated and delivered on the Closing Date for the Senior Bonds, as the date of original issue. The Series 2025A Bonds and the Series 2025A-T Bonds shall be issued in fully registered form in Authorized Denominations.

Section 3.02. Interest Payment Dates. The Series 2025A Bonds and the Series 2025A-T Bonds shall bear interest from their dated date or from the most recent Interest Payment Date to which interest has been duly paid or provided for, payable semiannually on each Interest Payment Date, commencing November 1, 2025.

Section 3.03. Interest Calculations; Payments of Principal and Interest. Interest on the Series 2025A Bonds and the Series 2025A-T shall be calculated on the basis of a three hundred sixty (360) day year with twelve (12) thirty (30) day months and rounded according to the rules of the Municipal Securities Rulemaking Board. The principal of and premium, if any, on the Series 2025A Bonds and the Series 2025A-T shall be paid upon the presentation and surrender thereof at the principal corporate trust office of the Trustee. Interest on the Series 2025A Bonds and the Series 2025A-T which is payable, and is punctually paid on any Interest Payment Date shall be paid by check or draft drawn upon the Trustee and mailed to the Persons in whose name the Series 2025A Bonds and the Series 2025A-T are registered as of the close of business on the Record Date for such Interest Payment Date at the address of such Holders as they appear on the Bond Register.

Section 3.04. Principal Amount, Stated Maturities and Interest Rates of Series 2025A Bonds and Series 2025A-T Bonds.

(A) The Series 2025A Bonds shall be issued in the original aggregate principal amount of \$[Par A] and shall mature on the dates and bear interest at the interest rates per annum, according to the Stated Maturities of the Series 2025A Bonds as set forth below:

<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
	\$	%

** Term Bond*

(B) The Series 2025A-T Bonds shall be issued in the original aggregate principal amount of \$[Par A-T] and shall mature on the dates and bear interest at the interest rates per annum, according to the Stated Maturities of the Series 2025A-T Bonds as set forth below:

<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
	\$	%
<i>* Term Bond</i>		

Section 3.05. Redemption of Series 2025 Bonds.

(A) Optional Redemption.

(i) Series 2025A Bonds. The Series 2025A Bonds maturing on and after May 1, 20___ are subject to redemption at the option of the Borrower, evidenced by Borrower Request, on May 1, 20___, and on any date thereafter, in whole or in part and in compliance with Article XII hereof, and if in part as provided in Section 12.04(A) hereof, at an amount equal to the principal amount of the Series 2025A Bonds so redeemed together with interest accrued on the principal amount to be redeemed to the Redemption Date, plus a premium (expressed as a percentage of the principal amount of the Series 2025A Bonds so redeemed) set forth below:

<u>Redemption Date</u>	<u>Redemption Premium</u>
May 1, 20___ through April 30, 20___	%
May 1, 20___ through April 30, 20___	
May 1, 20___ and thereafter	

(ii) Series 2025A-T Bonds. The Series 2025A-T Bonds shall not be subject to optional redemption prior to Maturity.

(B) Extraordinary Redemption. The Bonds are subject to extraordinary redemption on any Business Day in whole, or in part, at a redemption price equal to par, plus accrued interest to the redemption date, if certain events of damage to or destruction or condemnation of any of the Project occur.

(C) Mandatory and Scheduled Sinking Fund Redemption. The Series 2025A Bonds and Series 2025A-T Bonds are subject to mandatory sinking fund redemption as follows:

(i) Series 2025A Bonds. The Series 2025A Bonds maturing on May 1, 20___, May 1, 20___, and May 1, 20___ (collectively, the “Series 2025A Term Bonds”) are subject to mandatory sinking fund redemption on the following Principal Payment Dates and in the following principal amounts at a redemption price equal to the principal amount of the Series 2025A Bonds to be so redeemed plus accrued interest to the redemption date, as set forth below, on each such date to the extent that Series 2025A Bonds have not been redeemed other than pursuant to this subsection:

Series 2025A Term Bonds Maturing May 1, 20

<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>	<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>
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* Stated Maturity

Series 2025A Term Bonds Maturing May 1, 20

<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>	<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>
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* Stated Maturity

Series 2025A Term Bonds Maturing May 1, 20

<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>	<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>
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* Stated Maturity

(ii) Series 2025A-T Bonds. The Series 2025A-T Bonds maturing on May 1, 20__ (the “Series 2025A-T Term Bonds”) are subject to mandatory sinking fund redemption on the following Principal Payment Dates and in the following principal amounts at a redemption price equal to the principal amount of the Series 2025A-T Bonds to be so redeemed plus accrued interest to the redemption date, as set forth below, on each such date to the extent that Series 2025A-T Bonds have not been redeemed other than pursuant to this subsection:

Series 2025A-T Term Bonds Maturing May 1, 20

<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>	<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>
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* Stated Maturity

The Trustee shall select and call for redemption, in accordance with Article XII hereof, from the Term Bonds the amounts specified above, and the Term Bonds selected by the Trustee shall become due and payable on such date. The Borrower may, in accordance with the option set forth in Section 8.1 of the Loan Agreement, reduce the amount of any Mandatory Sinking Fund Payment payable on any Sinking Fund Payment Date by an amount equal to the principal amount of Outstanding Term Bonds then to be redeemed that shall be surrendered uncanceled by the Borrower to the Trustee, provided that the Borrower shall have surrendered such Term Bonds to the Trustee not less than forty-five (45) days prior to such Sinking Fund Payment Date, together with a Borrower Certificate stating its election to use such Term Bonds for such purpose. In such case, the Trustee shall reduce the amount of Term Bonds to be redeemed on the Sinking Fund Payment Date specified in such Borrower Certificate by the principal amount of Term Bonds so surrendered by the Borrower.

If Term Bonds are redeemed at the option of the Borrower pursuant to this Section 3.05, the Term Bonds so optionally redeemed may, at the option of the Borrower, be applied as a credit against any subsequent Mandatory Sinking Fund Payment with respect to Term Bonds otherwise to be redeemed thereby, such credit to be equal to the principal amount of such Term Bonds redeemed pursuant to this Section 3.05, provided that the Borrower shall have delivered to the Trustee not less than forty-five (45) days prior to such Sinking Fund Payment Date a Borrower Certificate stating its election to apply such Term Bonds as such a credit. In such case, the Trustee shall reduce the amount of Term Bonds to be redeemed on the Sinking Fund Payment Date specified in such Borrower Certificate by the principal amount of Term Bonds so redeemed pursuant to this Section 3.05.

Any credit given to Mandatory Sinking Fund Payments pursuant to this Section 3.05 shall not affect any subsequent Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in this Section 3.05, unless and until another credit is given in accordance with the provisions hereof.

Any Supplemental Indenture authorizing the issuance of Additional Bonds may provide for a similar mandatory redemption with regard to such Additional Bonds issued thereunder; and, in so doing, may provide that money to be used for such mandatory redemption is to be deposited in the Debt Service Fund or may create a similar fund or account for such purpose.

(D) Redemption upon a Determination of Taxability. The Bonds are also subject to mandatory redemption upon the occurrence of a Determination of Taxability with respect to any Tax-Exempt Bonds, including the Series 2025A Bonds. In such event, each of the Bonds shall be subject to mandatory redemption and shall be redeemed on the first Business Day for which notice can be duly given under this Indenture after the Borrower receives notice that a Determination of Taxability has

occurred, and the Borrower shall cause notice thereof to be given to the Holders of the Bonds, as more fully provided in Section 4.8 of the Loan Agreement, at a redemption price equal to par plus accrued interest.

(E) General Provisions. The Bonds shall be redeemed in accordance with Article XII hereof. Notice of any such redemption of Bonds, including Serial Bonds and Term Bonds, shall be mailed in the form provided by Section 12.05 hereof and in the manner and to the extent required by Article XII hereof. Deposit of the Redemption Price shall be in accordance with Section 12.06 hereof. Upon the happening of the above conditions, any Bonds thus called and for which such money has been deposited with or are held by the Trustee shall not bear interest after the redemption date, and except for the purpose of payment by application of the funds so deposited, shall no longer be secured by this Indenture.

Section 3.06. Authentication and Delivery of Series 2025A Bonds and Series 2025A-T Bonds. The Series 2025A Bonds and Series 2025A-T Bonds may forthwith upon the execution and delivery of this Indenture, or from time to time thereafter, be executed by the proper officials of the Issuer and delivered to the Trustee for authentication, and shall thereupon be authenticated and delivered by the Trustee, but only upon receipt by the Trustee of the following:

(A) an Issuer Resolution authorizing the issuance and sale of the Series 2025A Bonds and Series 2025A-T Bonds and the execution and delivery of the Loan Agreement, this Indenture, the BQ Fee Agreement, the Series 2025A Bonds, the Series 2025A-T Bonds, and the Bond Purchase Agreement;

(B) a Borrower Resolution authorizing the execution and delivery of the Borrower Documents and approving the terms of the Series 2025A Bonds and Series 2025A-T Bonds set forth in this Indenture and the borrowing of the proceeds of the Series 2025A Bonds and Series 2025A-T Bonds;

(C) an original executed counterpart of this Indenture, the BQ Fee Agreement, the Series 2025A Bonds, the Series 2025A-T Bonds, the Borrower Documents, and the Senior Limited Guaranty;

(D) the Letter of Credit has been delivered to the Trustee in a form acceptable to the Original Purchaser;

(E) an Issuer Request which requests the Trustee to authenticate the Series 2025A Bonds and Series 2025A-T Bonds, authorizes the Trustee to deliver the Series 2025A Bonds and Series 2025A-T Bonds so authenticated to or at the direction of the Original Purchaser therein identified upon payment to the Trustee, but for the account of the Issuer, of a sum specified in such Issuer Request and directs the Trustee as to the disposition of the proceeds of the Series 2025A Bonds and Series 2025A-T Bonds (together with the funds contributed by or on behalf of the Borrower) to the various funds and accounts established hereunder as set forth in Section 3.07 hereof; and

(F) an opinion of Bond Counsel as to the valid issuance of the Series 2025A Bonds and Series 2025A-T Bonds and as to the tax-exempt status of interest on the Series 2025A Bonds.

Section 3.07. Deposit of Proceeds of Series 2025A Bonds and Series 2025A-T Bonds. The Issuer shall deposit with the Trustee all of the net proceeds of the sale of the Series 2025A Bonds and Series 2025A-T Bonds, and the Trustee shall transfer or credit such proceeds (together with the funds contributed by or on behalf of the Borrower) to the funds and accounts specified in Section 5.02 hereof and the Issuer Request described in Section 3.06(D) hereof.

Section 3.08. Determination of Taxability.

(a) At such time as the Trustee receives written notification of a Determination of Taxability, the Trustee shall notify the Borrower and the Issuer thereof by certified mail, return receipt requested, postage prepaid and shall file such notification with EMMA.

(b) In the event the Trustee receives written notice from the Borrower that it is electing to contest a potential Determination of Taxability, the Trustee shall promptly notify EMMA and all Holders of such election.

ARTICLE IV

AUTHENTICATION AND DELIVERY OF ADDITIONAL BONDS

Section 4.01. General Provisions.

(A) In addition to the Series 2025A Bonds and Series 2025A-T Bonds, whose authentication and delivery is provided for in Article III hereof, without the consent of a majority of the Holders of the Bonds, Additional Bonds may at any time and from time to time be executed by the Issuer and delivered to the Trustee for authentication, but only upon receipt by the Trustee of the following:

(i) an Issuer Resolution authorizing the issuance of the Additional Bonds and the sale thereof to the purchaser or purchasers named therein for the purchase price set forth therein;

(ii) an Issuer Order directing the authentication of such Additional Bonds and the delivery thereof to or upon the order of the purchaser or purchasers named therein upon payment of the purchase price set forth therein;

(iii) a Borrower Certificate requesting the issuance of such Additional Bonds, stating that no default has occurred under the Loan Agreement which has not been cured, that the Additional Bonds to be authenticated have not theretofore been issued and that all conditions precedent provided for in this Indenture relating to the authentication and delivery of such Additional Bonds have been complied with;

(iv) a Borrower Certificate, Opinion of Counsel, and as applicable, a report of an Accountant required by Section 6.3 of the Loan Agreement, demonstrating the ability of the Borrower to incur the Indebtedness underlying or evidenced by such Additional Bonds;

(v) an Opinion of Counsel stating that all conditions precedent provided in this Indenture relating to the authentication and delivery of such Additional Bonds have been complied with;

(vi) an Opinion of Bond Counsel stating that the (A) Additional Bonds whose authentication and delivery are then applied for, when issued and executed by the Issuer and authenticated and delivered by the Trustee, will be the valid and binding special, limited obligations of the Issuer in accordance with their terms and entitled to the benefits of and secured by the lien of this Indenture, the Loan Agreement, the Mortgage and any Collateral Document equally and ratably with all Outstanding Bonds; and (B) the issuance of such Additional Bonds will not affect the tax-exempt nature for federal income tax purposes of any Tax-Exempt Bonds then Outstanding;

(vii) an executed counterpart of the Supplemental Indenture providing the terms of such Additional Bonds;

(viii) if required by the Original Purchaser of the series of Additional Bonds, a deposit to a new account in the Debt Service Reserve Fund for such Additional Bonds in the amount of the Reserve Requirement for such Additional Bonds as determined by the Original Purchaser, if any, provided that the Reserve Requirement shall not exceed the size limitations set forth in Section 1.148-2(f)(2)(ii) of the Treasury Regulations.

(ix) an executed counterpart of an amendment to the Loan Agreement providing for additional Loan Repayments sufficient to provide for the payment of principal, premium, if any, and interest on all Bonds to be Outstanding after the issuance of such series of Additional Bonds, and providing for Additional Payments if deemed necessary;

(x) the Issuer Resolution authorizing the execution and delivery of the Supplemental Indenture, the amendment to the Loan Agreement and such Additional Bonds;

(xi) executed counterparts of amendments or supplements to the Mortgage, and any Collateral Document, unless in the Opinion of Counsel none is required, subjecting to the lien thereof all property acquired or to be acquired from the proceeds of such Additional Bonds, and required by the provisions of this Indenture to be so subjected;

(xii) a Borrower Resolution authorizing the execution and delivery of the amendment to the Loan Agreement, the amendment or supplement to the Mortgage, if any, and any Collateral Document and approving the terms of the Additional Bonds;

(B) Any Additional Bonds shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate, if any, permitted by law, shall have Stated Maturities, and may be subject to redemption prior to their Stated Maturities at such times and prices and on such terms and conditions (in addition to those specified in Article X hereof), all as may be provided by the Supplemental Indenture authorizing their issuance. All Additional Bonds shall be payable and secured equally and ratably and on a parity with the Series 2025A Bonds, the Series 2025A-T Bonds, and any Additional Bonds theretofore issued, entitled to the same benefits and security of this Indenture, the Loan Agreement, the Mortgage, and any Collateral Documents.

(C) Additional Bonds may only be issued to finance the activities identified in the first paragraph of Section 6.3 of the Loan Agreement.

(D) Additional Bonds may only be issued under this Indenture if the Series 2025B Bonds are no longer outstanding under the Subordinate Indenture.

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ARTICLE V

APPLICATION OF TRUST MONEY

Section 5.01. “Trust Money” Defined. All money received by the Trustee (collectively, the “Trust Money”):

(A) upon the release of property from the lien of the Loan Agreement, the Mortgage, any Collateral Document or this Indenture;

(B) as compensation for, or proceeds of sale of, any part of the Project taken by eminent domain or purchased by, or sold pursuant to an order of, a governmental authority or otherwise disposed of;

(C) as proceeds of insurance upon any part of the Project;

(D) as elsewhere herein provided to be held and applied under this Article V, or required to be paid to the Trustee and whose disposition is not elsewhere herein otherwise specifically provided for, including but not limited to the investment income of all funds and accounts held by the Trustee under this Indenture, other than amounts held in the Rebate Fund;

(E) as proceeds from the sale of the Series 2025A Bonds and Series 2025A-T Bonds and any Additional Bonds;

(F) all draws under the Senior Limited Guaranty;

(G) all draws under the Letter of Credit in accordance with Section [____] of the Loan Agreement; or

shall be held by the Trustee as a part of the Trust Estate, and, upon the exercise by the Trustee of any remedy specified in Article VII hereof, such Trust Money shall be applied in accordance with Section 7.04 hereof, except to the extent that the Trustee is holding in trust money and/or Government Obligations for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article VI hereof, which money and/or Government Obligations shall be applied only as provided in said Article VI. Prior to the exercise of any such remedy, all or any part of the Trust Money shall be held, invested, withdrawn, paid or applied by the Trustee, from time to time, as provided in this Article V and in Article VI hereof.

All Trust Money shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer, the Trustee or the Borrower. Such Trust Money shall be held in trust and applied in accordance with the provisions of this Indenture. All Trust Money, for any legal, tax or other purpose, shall be considered funds of the Borrower, although subject to the security interest of the Trustee imposed by this Indenture.

Section 5.02. Deposit of Proceeds of Series 2025A Bonds and Series 2025A-T Bonds and Borrower Funds. On the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, the proceeds of the sale of the Series 2025A Bonds in the amount of \$_____ (par amount of the Series 2025A Bonds of \$[Par A].00, [plus [net] original issue premium of \$_____,] [less [net] original issue discount of \$_____] , less an underwriter’s discount of \$_____) and sale proceeds of the Series 2025A-T Bonds in the amount of \$_____ (par amount of the Series 2025A-T Bonds of \$[Par A-T].00, [plus [net] original issue premium of \$_____,] [less [net]

original issue discount of \$_____,] less an underwriter's discount of \$_____), along with equity of the Borrower in the amount of \$_____, shall be deposited by the Trustee as follows:

(A) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Construction Fund;

(B) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Capitalized Interest Fund;

(C) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Costs of Issuance Fund;

(D) proceeds of the Series 2025A Bonds in the amount of \$_____ shall be deposited in the Series 2025A Account of the Debt Service Reserve Fund as the Reserve Requirement for the Series 2025A Bonds;

(E) proceeds of the Series 2025A-T Bonds in the amount of \$_____ shall be deposited in the Series 2025A-T Account of the Debt Service Reserve Fund as the Reserve Requirement for the Series 2025A-T Bonds;

(F) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the respective accounts of the Debt Service Fund;

(G) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be **[deposited in the Construction fund for immediate transfer] [immediately transferred]** to _____, as the holder of the Prior Taxable Debt, to redeem and prepay the Prior Taxable Debt on _____, 2025;

(H) equity of the Borrower in the amount of \$_____ shall be deposited in the Working Capital Fund; and

(I) proceeds of the Series 2025A Bonds in the amount of \$_____, proceeds of the Series 2025A-T Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Taxes and Insurance Escrow Fund.

Section 5.03. Construction Fund. A special trust fund is hereby established with the Trustee and designated the "Construction Fund." On the Closing Date of the Series 2025A Bonds and the Series 2025A-T Bonds, the Trustee shall credit to the Construction Fund the amount set forth in Section 5.02 hereof. Any money received by the Trustee from or on behalf of the Borrower for payment of Qualified Project Costs and identified as such shall be credited to the Construction Fund. In addition, certain amounts may be transferred to the Trustee for deposit in the Construction Fund in accordance with the BQ Fee Agreement. [In addition, [LOC Draw] proceeds may be transferred to the Trustee for deposit in the Construction Fund in accordance with the Letter of Credit and Section [_____] of the Loan Agreement for payment of Qualified Project Costs.] Money in the Construction Fund shall only be disbursed in compliance with the requirements of this Section 5.03 and the provisions of the Disbursing

Agreement for Qualified Project Costs following the disbursement of all funds in the construction fund established pursuant to the Subordinate Indenture, as evidenced by a certificate from the authorized Borrower Representative addressed to the Trustee stating that the construction fund established pursuant to the Subordinate Indenture has been fully expended and the date of such occurrence.

All money in the Construction Fund shall be held by the Trustee in trust as Trust Money and, subject to the provisions of this Section 5.03 and the Disbursing Agreement, shall be applied to the payment of Qualified Project Costs, and pending such application, shall be subject to a lien and charge in favor of the Holders of the Outstanding Bonds.

For purposes of complying with the requirements of this Section, the Trustee shall conclusively rely and shall be protected in acting or refraining from acting upon the Disbursement Request of the Borrower, which may be submitted by facsimile. The Trustee shall not be bound to make an investigation into the facts or matters stated in any Disbursement Request of the Borrower and shall have no duty or obligation to confirm that any requested disbursements constitute Qualified Project Costs. The Trustee shall not be responsible for determining whether the funds on hand in the Construction Fund are sufficient to complete the Project. The Trustee shall not be responsible to collect lien waivers.

If the Trustee has accelerated the Bonds in accordance with Section 7.02 and has accelerated the Loan Repayments in accordance with the provisions of Section 9.2 of the Loan Agreement, the Trustee shall immediately transfer any amounts remaining in the Construction Fund to the Debt Service Fund to be applied in accordance with the provisions of Article VII hereof.

All income derived from the investment of amounts in the Construction Fund, after payment of any unpaid Trustee's fees, shall remain in the Construction Fund.

On the Completion Date of the Project, after payment of all Qualified Project Costs relating thereto, any balance remaining in the Construction Fund shall be transferred to the Debt Service Fund.

Section 5.04. Costs of Issuance Fund. A special trust fund is hereby established with the Trustee and designated the "Costs of Issuance Fund." On the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, the Trustee shall credit to the Costs of Issuance Fund the amount set forth in Section 5.02 hereof for the payment of Costs of Issuance of the Series 2025A Bonds and Series 2025A-T Bonds and for a payment of a portion of the Original BQ Payment (as defined in and described in the BQ Fee Agreement). Upon receipt by the Trustee of a written request of the Borrower, from time to time, amounts in the Costs of Issuance Fund shall be withdrawn and paid to the persons designated by the Borrower for payment of Costs of Issuance. The Trustee shall have no duty or obligation to confirm that any such requested disbursements constitute Costs of Issuance. Any amounts remaining in the Costs of Issuance Fund on _____, 2025, shall be transferred to the Debt Service Fund and applied to payment of the Series 2025A Bonds and Series 2025A-T Bonds. All investment income from amounts in the Costs of Issuance Fund shall be upon receipt immediately transferred by the Trustee to the Debt Service Fund. A Supplemental Indenture delivered in connection with the issuance of Additional Bonds may provide for additional Costs of Issuance Funds for such series of Additional Bonds.

Section 5.05. Debt Service Fund. A special trust fund is hereby established with the Trustee and designated the "Debt Service Fund." **[WE WILL ADD A SEPARATE DEBT SERVICE FUND IF THERE IS A TAXABLE SERIES.]** On the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, there shall be deposited in the Debt Service Fund the amount set forth in Section 5.02 hereof.

(A) Loan Repayments paid to the Trustee by the Borrower under Section 4.2 of the Loan Agreement and funds transferred from the Capitalized Interest Fund pursuant to Section 5.08 hereof shall be deposited in the Debt Service Fund, together with any other amounts permitted to be deposited therein on behalf of the Borrower and delivered to or transferred by the Trustee for deposit. If amounts in the Debt Service Fund are not sufficient to pay in full the principal and interest requirements on the Bonds, the amount of such deficiency shall be transferred, to the extent of available funds, in the following order: from the Optional Redemption Fund, the Working Capital Fund, draws from the Senior Limited Guaranty and then from the Debt Service Reserve Fund.

(B) The money and investments in the Debt Service Fund are irrevocably pledged and shall be used by the Trustee, from time to time, to the extent required:

FIRST: For the payment of interest whenever due and payable and for the payment of principal of Bonds when due at maturity or upon sinking fund redemption; and

SECOND: Upon direction by the Borrower, to purchase Outstanding Bonds at purchase prices not exceeding par plus accrued interest, but only to the extent amounts therein are sufficient to pay all principal of and interest on the Bonds scheduled to become due in the then current Bond Year either at maturity or upon sinking fund redemption, as reduced by the amount of credit which will be given as against such payments for such purchase of Bonds.

(C) Investment income on amounts in the Debt Service Fund, upon receipt by the Trustee, shall be retained in the Debt Service Fund.

(D) The Borrower shall have no right, title or interest in any amounts from time to time in the Debt Service Fund.

Section 5.06. Debt Service Reserve Fund. A special trust fund is hereby established with the Trustee and designated the “Debt Service Reserve Fund.” Certain amounts may be transferred to the Trustee for deposit in the Debt Service Reserve Fund to replenish the [applicable account of] the Debt Service Reserve Fund in accordance with Section 4.03(b) and (c) of the Loan Agreement.

(A) Series 2025A Bonds. Within the Debt Service Reserve Fund there shall be created and maintained an account designated as the “Series 2025A Account” to secure the Series 2025A Bonds.

(i) On the Closing Date of the Series 2025A Bonds, the Trustee shall credit to the Series 2025A Account of the Debt Service Reserve Fund the amount set forth in Section 5.02 hereof to satisfy the Reserve Requirement for the Series 2025A Bonds.

(ii) If on any Interest Payment Date or Principal Payment Date, there is a deficiency in **[the respective account of the]** the Debt Service Fund for payment of principal, premium, if any, or interest then due with respect to the Series 2025A Bonds, the Trustee shall, after transferring to the Debt Service Fund any available funds on hand in the Optional Redemption Fund and the Working Capital Fund, and after drawing funds under the Senior Limited Guaranty, transfer from the Series 2025A Account of the Debt Service Reserve Fund to the Debt Service Fund an amount equal to any remaining deficiency. Notwithstanding the foregoing, no portion of the Debt Service Reserve Fund initially funded with the proceeds of the Series 2025A Bonds shall be used to pay debt service on the Series 2025A-T Bonds.

(iii) Notwithstanding any other provision hereof, all Qualified Investments acquired for the Series 2025A Account of the Debt Service Reserve Fund shall meet the definition of “plain par investments” as set forth in Section 1.148-1(b) of the Treasury Regulations (i.e., shall be a fixed rate

investment which pays interest at least annually; if redeemable, shall have a lowest stated redemption price not less than its outstanding stated principal amount; and shall be acquired with original issue or market discount, or original issue or market premium, as applicable, not exceeding two percent (2%) of the stated redemption price at maturity). The Trustee has no duty or obligation to confirm that any Qualified Investments delivered to it by the Borrower meet such requirements.

(iv) Investment of amounts on hand in the Series 2025A Account of the Debt Service Reserve Fund shall be made in any Qualified Investments specified in a Borrower Request. All income derived from the investment of amounts on hand in the Series 2025A Account of the Debt Service Reserve Fund shall remain in, and be credited as received to, the Series 2025A Account of the Debt Service Reserve Fund until such time as the balance in the Series 2025A Account of the Debt Service Reserve Fund (valued in accordance with Section 5.14(E) hereof) is equal to the Reserve Requirement for the Series 2025A Bonds, and thereafter all such investment income shall be transferred as received according to the following paragraph. If on any Interest Payment Date, the balance in the Series 2025A Account of the Debt Service Reserve Fund exceeds the Reserve Requirement for the Series 2025A Bonds, after payment of any unpaid Trustee's fees and expenses, the Trustee shall immediately transfer such excess to **[respective account of]** the Debt Service Fund.

(v) If any amount is transferred from the Series 2025A Account of the Debt Service Reserve Fund to **[respective account of]** the Debt Service Fund pursuant to the requirements of this Indenture to pay debt service on the Series 2025A Bonds as a result of the failure of the Borrower to make the Loan Repayments required by Section 4.2 of the Loan Agreement, the Trustee will thereafter credit to the Series 2025A Account of the Debt Service Reserve Fund all payments received by the Trustee from the Borrower pursuant to the Section 4.3(b) of the Loan Agreement.

(vi) The Reserve Requirement for the Series 2025A Bonds, if not previously used to pay such Series 2025A Bonds, shall be applied against the final installment of principal due on such Series 2025A Bonds, provided that no portion of the funds on hand in the Series 2025A Account of the Debt Service Reserve Fund initially funded with the proceeds of the Series 2025A Bonds shall be applied to the payment of the Series 2025A-T Bonds.

(B) Series 2025A-T Bonds. Within the Debt Service Reserve Fund there shall be created and maintained an account designated as the "Series 2025A-T Account" to secure the Series 2025A-T Bonds.

(i) On the Closing Date of the Series 2025A-T Bonds, the Trustee shall credit to the Series 2025A-T Account of the Debt Service Reserve Fund the amount set forth in Section 5.02 hereof to satisfy the Reserve Requirement for the Series 2025A-T Bonds.

(ii) If on any Interest Payment Date or Principal Payment Date, there is a deficiency in **[the respective account of the]** the Debt Service Fund for payment of principal, premium, if any, or interest then due with respect to the Series 2025A-T Bonds, the Trustee shall, after transferring to the Debt Service Fund any available funds on hand in the Optional Redemption Fund and the Working Capital Fund, and after drawing funds under the Senior Limited Guaranty, transfer from the Series 2025A-T Account of the Debt Service Reserve Fund to the Debt Service Fund an amount equal to any remaining deficiency. Notwithstanding the foregoing, no portion of the Debt Service Reserve Fund initially funded with the proceeds of the Series 2025A-T Bonds shall be used to pay debt service on the Series 2025A Bonds.

(iii) Notwithstanding any other provision hereof, all Qualified Investments acquired for the Series 2025A-T Account of the Debt Service Reserve Fund shall meet the definition of "plain par investments" as set forth in Section 1.148-1(b) of the Treasury Regulations (i.e., shall be a fixed rate

investment which pays interest at least annually; if redeemable, shall have a lowest stated redemption price not less than its outstanding stated principal amount; and shall be acquired with original issue or market discount, or original issue or market premium, as applicable, not exceeding two percent (2%) of the stated redemption price at maturity). The Trustee has no duty or obligation to confirm that any Qualified Investments delivered to it by the Borrower meet such requirements.

(iv) Investment of amounts on hand in the Series 2025A-T Account of the Debt Service Reserve Fund shall be made in any Qualified Investments specified in a Borrower Request. All income derived from the investment of amounts on hand in the Series 2025A-T Account of the Debt Service Reserve Fund shall remain in, and be credited as received to, the Series 2025A-T -T Account of the Debt Service Reserve Fund until such time as the balance in the Series 2025A Account of the Debt Service Reserve Fund (valued in accordance with Section 5.14(E) hereof) is equal to the Reserve Requirement for the Series 2025A-T Bonds, and thereafter all such investment income shall be transferred as received according to the following paragraph. If on any Interest Payment Date, the balance in the Series 2025A-T Account of the Debt Service Reserve Fund exceeds the Reserve Requirement for the Series 2025A-T Bonds, after payment of any unpaid Trustee's fees and expenses, the Trustee shall immediately transfer such excess to [respective account of] the Debt Service Fund.

(v) If any amount is transferred from the Series 2025A-T Account of the Debt Service Reserve Fund to **[respective account of]** the Debt Service Fund pursuant to the requirements of this Indenture to pay debt service on the Series 2025A-T Bonds as a result of the failure of the Borrower to make the Loan Repayments required by Section 4.2 of the Loan Agreement, the Trustee will thereafter credit to the Series 2025A-T Account of the Debt Service Reserve Fund all payments received by the Trustee from the Borrower pursuant to the Section 4.3(b) of the Loan Agreement.

(vi) The Reserve Requirement for the Series 2025A-T Bonds, if not previously used to pay such Series 2025A-T Bonds, shall be applied against the final installment of principal due on such Series 2025A-T Bonds, provided that no portion of the funds on hand in the Series 2025A-T Account of the Debt Service Reserve Fund initially funded with the proceeds of the Series 2025A-T Bonds shall be applied to the payment of the Series 2025A Bonds.

(C) In the event any Additional Bonds are issued, a separate debt service reserve fund or an additional account within the Debt Service Reserve Fund shall be created pursuant to a Supplemental Indenture in connection with the issuance of such Additional Bonds.

Section 5.07. Optional Redemption Fund. A special trust fund is hereby established with the Trustee and designated the "Optional Redemption Fund."

(A) The Trustee shall deposit into the Optional Redemption Fund all amounts deposited for the payment of amounts due upon a redemption of Outstanding Bonds (other than because of mandatory sinking fund redemption pursuant to Section 3.05(C) hereof), and as may be required by any provision of the Loan Agreement or this Indenture and amounts resulting from the release of Land from the Mortgage in accordance with Section 4.7 of the Mortgage.

(B) Amounts on deposit to the credit of the Optional Redemption Fund shall be used, first, to make up deficiencies in the Debt Service Fund (to the extent described in Section 5.05(A) hereof); second, for the payment of principal of or, premium, if any, and interest on Bonds as a result of the redemption of Outstanding Bonds at the request or direction of the Borrower pursuant to Article XII hereof; and third, for the purchase of Outstanding Bonds at the direction of the Borrower as provided in Section 5.06(B) hereof.

(C) Upon receipt by the Trustee, investment income on amounts in the Optional Redemption Fund shall be transferred to the Debt Service Fund.

(D) The Borrower shall have no right, title or interest in any amounts from time to time in the Optional Redemption Fund.

Section 5.08. Capitalized Interest Fund. A special trust fund is hereby established with the Trustee and designated the “Capitalized Interest Fund.”

(A) On the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, the Trustee shall credit to the Capitalized Interest Fund the amount set forth in Section 5.02 hereof. Funds in the Capitalized Interest Fund shall be transferred automatically by the Trustee to the Debt Service Fund on the last Business Day of the month prior to a month in which an Interest Payment Date occurs in full or partial satisfaction of the interest payment payable by the Borrower with respect to the Bonds until the Capitalized Interest Fund is fully depleted.

(B) Any interest earned on sums held in the Capitalized Interest Fund prior to the Completion Date shall remain a part of the Capitalized Interest Fund.

(C) Any funds remaining in the Capitalized Interest Fund following the Completion Date of the Project shall be transferred to the Debt Service Fund.

Section 5.09. Repair and Replacement Reserve Fund. A special fund is hereby established with the Trustee and designated as the “Repair and Replacement Reserve Fund.” Pursuant to Section 4.3(d) of the Loan Agreement, the Borrower shall make monthly deposits to the Repair and Replacement Reserve Fund.

(A) Moneys in the Repair and Replacement Reserve Fund shall, to the extent herein provided, be disbursed by the Trustee to and in accordance with the form of draw request set forth as EXHIBIT C hereto and used by the Borrower to pay for depreciable expenses attributable to the cost of renewals, replacements or improvements to the Project. Each written request from the Borrower shall be accompanied by a certificate from the authorized Borrower Representative addressed to the Trustee to the effect that such work is a depreciable expense. Such request shall itemize the nature of the work to be undertaken by the Borrower and shall include a certification to the Trustee by a Borrower Representative to the effect that such request seeks payment or reimbursement for costs that are fair and reasonable market costs for such itemized work. The Trustee shall not be bound to make an investigation into the facts or matters stated in any such requisition and has no duty or obligation to confirm that any requested disbursements are for a permitted purpose.

(B) All income derived from investment amounts on deposit in the Repair and Replacement Reserve Fund shall remain in, and be credited to, the Repair and Replacement Reserve Fund.

(C) Any funds remaining in the Capitalized Interest Fund following the Completion Date of the Project shall be transferred to the Debt Service Fund and used for the payment of interest on the Senior Bonds.

Section 5.10. Rebate Fund. A special fund is hereby established with the Trustee and designated as the “Rebate Fund.” The Trustee shall make information regarding any Bonds which are Tax-Exempt Bonds and investments hereunder available to the Borrower, shall make deposits and disbursements from the Rebate Fund in accordance with the instructions received from the Borrower shall invest the Rebate Fund pursuant to the direction of the Borrower and shall deposit income from such

investments immediately upon receipt thereof in the Rebate Fund. The Issuer shall have no liability with respect to arbitrage rebate.

Section 5.11. Working Capital Fund. A special trust fund is hereby established with the Trustee and designated the “Working Capital Fund.” On the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, the Trustee shall credit to the Working Capital Fund the amount set forth in Section 5.02 hereof. [In addition, [LOC Draw] proceeds may be transferred to the Trustee for deposit in the Working Capital Fund in accordance with the Letter of Credit and Section [] of the Loan Agreement for payment of working capital costs.] Amounts in the Working Capital Fund shall be disbursed by the Trustee to the Borrower in accordance with the form of draw request attached hereto as EXHIBIT D for the payment of working capital costs (including but not limited to pre-opening costs, operating expenses, leasing expenses, and marketing costs) with respect to the Project. The Trustee shall also transfer funds from the Working Capital Fund to the Debt Service Fund to the extent of any deficiency in the Debt Service Fund on any Interest Payment Date, after transferring to the Debt Service Fund any available funds on hand in the Optional Redemption Fund. Interest earned on the Working Capital Fund shall be deposited into the Construction Fund.

The amounts credited to the Working Capital Fund shall be released to the Borrower in the event that (i) the Trustee has received a Borrower Request for the release to the Borrower of the amounts credited to the Working Capital Fund; and (ii) based on the audited financial statements of the Borrower for the Fiscal Year preceding the Borrower Request (for any Fiscal Year ending on or after September 30, 20__), the Borrower’s Net Revenues Available for Debt Service shall be at least one hundred _____ percent (1__%) of the Principal and Interest Requirements on Long-Term Indebtedness for such Fiscal Year (including Management Fees paid to Sole Member in Project Operating Expenses in the calculation of the ratio of the Borrower’s Net Revenues Available for Debt Service to Principal and Interest Requirements on Long-Term Indebtedness but excluding debt service on any Subordinate Indebtedness in the calculation).

Section 5.12. Taxes and Insurance Escrow Fund. The Trustee shall establish and maintain a special trust fund designated as the “Taxes and Insurance Escrow Fund” to be funded on the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds in the amount set forth in Section 5.02 hereof. Commencing on _____ 25, 20__, and on or before the twenty-fifth day of each month thereafter, the Borrower shall make monthly deposits of one-twelfth of the tax payments and insurance premiums for the upcoming twelve (12) month period to the Taxes and Insurance Escrow Fund in accordance with Section 4.3 of the Loan Agreement. The Trustee shall apply money on deposit in the Taxes and Insurance Escrow Fund, upon written request of the Borrower, solely to pay (A) the real estate tax payments (including payments in lieu of taxes) then due and payable with respect to the Project; and (B) premiums then due and payable on insurance policies maintained by the Borrower in accordance with the requirements of Section 5.10 of the Loan Agreement. The Borrower shall provide detailed written payment instructions for any real estate tax payments and insurance premium payments to be made hereunder, and the Trustee shall be entitled to rely on such payment instructions without further investigation. Notwithstanding the foregoing, any investment earnings from the Taxes and Insurance Escrow Fund will remain in, and be credited to, the Taxes and Insurance Escrow Fund.

Section 5.13. Additional Payments. Pursuant to Section 4.3 of the Loan Agreement, the Borrower has covenanted to pay directly to the Trustee when due Additional Payments in an amount sufficient to pay the costs and expenses of the Trustee. Such Additional Payments shall not be treated or considered as Trust Money for any purpose of this Indenture, and the Trustee may on its own behalf enforce such covenant against the Borrower. The Trustee shall have a lien on all Trust Money, except money and/or Government Obligations held by the Trustee for the payment of any specified Bonds under

Article VI hereof, prior to the lien securing the Bonds, for such costs and expenses as set forth in Section 8.07 hereof.

Section 5.14. Qualified Investments.

(A) The Trustee shall invest all Trust Money on hand from time to time as specified in a Borrower Request in any of the following Qualified Investments:

(a) bills, certificates of indebtedness, notes, bonds, or similar securities which are direct obligations of, or the principal and interest of which are unconditionally guaranteed by, the United States of America;

(b) direct and general obligations of any state of the United States of America or any municipality or political subdivision of such state, or obligations of any corporation, if such obligations are in one (1) of the two (2) highest rating categories by S&P or Moody's or, upon the discontinuance of either or both of such rating agencies, any other nationally recognized rating service;

(c) negotiable or non-negotiable certificates of deposit, time deposits, or other similar banking arrangements, issued by any nationally or state-chartered bank (including the Trustee) or trust company or any savings and loan association, domiciled in the State, if either (i) the long-term obligations of such bank or trust company are rated in one (1) of the two (2) highest rating categories by S&P or Moody's or, upon the discontinuance of either or both of such rating services, any other nationally recognized rating service or (ii) the deposits are continuously secured as to principal, but only to the extent not insured by the Federal Deposit Insurance Corporation, or similar corporation chartered by the United States of America, (A) by lodging with a bank or trust company, as collateral security, obligations described in paragraph (a) or (b) above or other marketable securities eligible as security for the deposit of trust funds under applicable regulations of the Comptroller of the Currency of the United States of America or applicable state law or regulations, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (B) if the furnishing of security as provided in clause (A) of this paragraph is not permitted by applicable law, in such manner as may then be required or permitted by applicable state or federal laws and regulations regarding the security for the deposit of trust funds;

(d) repurchase agreements with respect to obligations listed in paragraph (a) or paragraph (b) above if entered into with a nationally or state-chartered bank domiciled in the State (including the Trustee), trust company domiciled in the State or a broker or dealer (as defined by the Securities Exchange Act of 1934, as amended) which is a member of the Securities Investors Protection Corporation if (i) such obligations that are the subject of such repurchase agreement are delivered to the Trustee or are supported by a safekeeping receipt issued by a depository, provided that such repurchase agreement must provide that the value of the underlying obligations shall be maintained at current market value, calculated no less frequently than monthly, of not less than the repurchase price, (ii) a prior perfected security interest in the obligations which are the subject of such repurchase agreement has been granted to the Trustee, and (iii) such obligations are free and clear of any adverse third-party claims;

(e) commercial paper maturing in two hundred seventy (270) days or less and rated in the highest rating category by two (2) nationally recognized rating services;

(f) money market mutual funds invested solely in obligations listed in paragraph (a), (b), or (c) above including funds offered or managed by the Trustee or its affiliates;

(g) agreements or contracts for guaranteed investment contracts issued or guaranteed by financial institutions, United States commercial banks, domestic branches of foreign banks, United States insurance companies, or their Canadian subsidiaries. The credit quality of the issuer's or guarantor's long-term unsecured debt must be rated in one of the three highest categories by a nationally recognized rating agency;

(h) certificates or receipts issued by any nationally or state-chartered bank, domiciled in the State, trust company domiciled in the State or broker or dealer (as defined by the Securities Exchange Act of 1934, as amended) which is a member of the Securities Investors Protection Corporation, organized and existing under the laws of the United States of America or any state thereof, the outstanding unsecured long-term debt of which is rated in either of the two (2) highest rating categories by S&P or Moody's or, upon the discontinuance of either rating services, in the capacity of custodian, which certificates or receipts evidence ownership of a portion of the principal of or interest on Governmental Obligations held (which may be in book-entry form) by such bank, trust company or broker or dealer (as defined by the Securities Exchange Act of 1934, as amended) as custodian;

(i) tax-exempt obligations (as defined in section 150(a)(6) of the Code and which are not "investment property" as defined in Section 148(b)(2) of the Code) rated at the time of purchase in one of the two (2) highest rating categories by S&P or Moody's or, upon the discontinuance of either rating service or both of such rating services, any other nationally recognized rating service;

(j) deposits in interest-bearing, time deposits or certificates of deposit or similar arrangements (without regard to whether such deposits or arrangements are insured by the Federal Deposit Insurance Corporation (the "FDIC") of any lead bank of a bank holding company which has at least an "A-1" or "prime-one" rating or their equivalents from S&P or Moody's, or their successors, or certificates of deposit of any national bank if the amount thereof is fully insured by the FDIC;

(k) U.S. dollar denominated deposit accounts, federal funds with domestic commercial banks which have a rating on their short-term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and maturing no more than three hundred sixty (360) days after the date of purchase (Ratings on holding companies are not considered as the rating of the bank.); and

(l) any investments which are legal investments under Minnesota Statutes, Chapter 118A.

(B) The Trustee may rely on the investment directions of the Borrower as to both the suitability and the legality of the directed investment and such written direction shall be deemed to be a certification that such directed investments constitute Qualified Investments. Ratings on Qualified Investments shall be determined at the time of initial purchase of such Qualified Investments and without regard to ratings subcategories and the Trustee shall have no responsibility to monitor the ratings of Qualified Investments after the initial purchase of such Qualified Investments, including at the time of reinvestment of earnings thereof. In the absence of such direction, all funds shall be held by the Trustee uninvested in cash, without liability for interest. The Trustee shall without further direction from the Issuer or the Borrower sell such Qualified Investments as and when required to make any payment for the purpose for which such investments are held. Each investment shall be credited to the fund for which it is held, after payment of any unpaid Trustee's fees, subject to any other provision of this Indenture directing some other credit, but income on such Qualified Investments shall be held or transferred, as received, in

accordance with this Article V. The Trustee shall not be responsible for any losses on investments made in good faith or the tax consequences thereof.

(C) The Trustee shall furnish the Borrower, not less than annually, a detailed accounting of all investments and investment transactions. By the execution of the Loan Agreement, the Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur, and the Borrower specifically waives such notification to the extent permitted by law.

(D) The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Qualified Investments in such funds and accounts, or to credit to Qualified Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Borrower acknowledges that the legal obligation to pay the purchase price of any Qualified Investments arises immediately at the time of the purchase. Notwithstanding anything else in this Indenture, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto; and (ii) nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

(E) In computing the assets of any Fund established hereunder, investments and accrued but unpaid interest thereon shall be deemed a part thereof, and such investments shall be valued at market value, or at the redemption price thereof, if then redeemable at the option of the holder.

The Issuer and the Borrower each acknowledges and agrees that the Trustee shall (i) only be required to report the value of any assets on statements, books, and records according to the price provided by pricing services and sources relied upon by the Trustee, and (ii) not have any duty to independently value any asset or an obligation to report a value other than the price provided by pricing services and sources relied upon by Trustee.

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ARTICLE VI

DEFEASANCE

Section 6.01. Payment of Indebtedness; Satisfaction and Discharge of Indenture. This Indenture shall cease to be of further effect (except as to rights of transfer or exchange of Bonds herein expressly provided for), and the Trustee, on demand of and at the expense of the Borrower, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, upon the following:

(A) either:

(i) all Bonds theretofore authenticated and delivered (other than (1) Bonds which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.08 hereof; and (2) Bonds for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Borrower and thereafter repaid to the Borrower or discharged from such trust, as provided in Section 11.02 hereof) have been delivered to the Trustee canceled or for cancellation; or

(ii) all such Bonds not theretofore delivered to the Trustee canceled or for cancellation, have been defeased in accordance with Section 6.02 hereof; and

(B) the Borrower has paid or caused to be paid all other sums payable hereunder by the Issuer and the Borrower; and

(C) the Borrower has delivered to the Trustee a Borrower Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Section 6.02. Defeasance of Bonds. Bonds shall be defeased and shall no longer be deemed Outstanding (except as to rights of transfer or exchange of Bonds herein expressly provided for) when there are delivered to the Trustee:

(A) either (i) Defeasance Obligations, the principal of, premium, if any, and interest on which when due will, without reinvestment, provide cash at times and in amounts which together with the cash, if any, deposited with the Trustee at the same time as the Defeasance Obligations are delivered to the Trustee, or (ii) such cash delivered to the Trustee in an amount which, without investment or reinvestment, shall be sufficient to pay the full amount of principal, premium, if any, and interest which will become due and payable with respect to such Bonds, on and before their Stated Maturity or on and before a specified Redemption Date, as the case may be, and if any of such Bonds are to be redeemed arrangements satisfactory to the Trustee have been made for giving notice of such redemption at the expense of the Borrower in the manner provided by Section 12.05 hereof; and

(B) an Opinion of Bond Counsel to the effect that the deposit described in subsection (A) above will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond; and

(C) if the defeasance is to be accomplished through a refunding where redemption of the Bonds will occur more than ninety (90) days after the Redemption Date, a report of an Accountant verifying the mathematical sufficiency of the proceeds of the Defeasance Obligations and any cash delivered to the Trustee as described in subsection (A) above, to pay the entire amount of principal,

premium, if any, and interest on the Bonds to be defeased on and before their Stated Maturity or Redemption Date, as the case may be; and

(D) a Borrower Certificate and an Opinion of Counsel, each stating that, assuming the accuracy of the report referred to in subsection (C) above, all conditions precedent herein provided for relating to the defeasance of such Bonds have been complied with.

Section 6.03. Application of Deposited Money. All money, obligations and income thereon deposited with the Trustee pursuant to Sections 6.01 and 6.02 hereof shall not be a part of the Trust Estate and shall not be deemed Trust Money but shall constitute a special trust fund for the benefit of the Persons entitled thereto, and shall be applied by the Trustee to the payment (either directly or through a paying agent), to the Persons entitled thereto, of the principal, premium, if any, and interest for payment of which such money or obligation were deposited with the Trustee.

Section 6.04. Final Disposition of Money. Upon the satisfaction and discharge of this Indenture and the satisfaction of any and all claims against the Issuer, any money remaining in any fund created under this Indenture and not required for the payment of any Bonds shall be paid to the Borrower.

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ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.01. Events of Default. The term “Event of Default,” wherever used herein, means any of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (A) default in the payment of any interest upon any Bond when it becomes due and payable;
- (B) default in the payment of the principal of (or premium, if any, on) any Bond when the same becomes due and payable;
- (C) default in the performance, or breach, of any covenant or warranty of the Issuer contained in this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 7.01 specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Issuer and the Borrower by the Trustee, or to the Issuer, the Borrower and the Trustee by the Majority of Bondholders, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder;
- (D) occurrence of an “Event of Default” under Section 9.1 of the Loan Agreement; or
- (E) failure by the Sole Member to make the payments required under the Senior Limited Guaranty.

If an Event of Default occurs of which the Trustee is required to take notice or if notice of Event of Default be given as therein provided, then the Trustee shall promptly give written notice thereof to the Bondholders and post such notice on EMMA.

Section 7.02. Acceleration of Maturity.

- (A) If an Event of Default occurs and is continuing, then and in every such case the Trustee may, and upon the written request by registered or certified mail to the Trustee by the Majority of Bondholders shall, subject to Sections 7.15 and 8.03(E) hereof, declare the principal of all the Outstanding Bonds to be due and payable immediately by a notice in writing to the Issuer and the Borrower, and upon any such declaration such principal shall become immediately due and payable; provided, however, that no Bonds shall be accelerated under this Section 7.02 unless and until the Trustee shall have exercised the remedy specified in Section 9.2(a) of the Loan Agreement;
- (B) At any time after such a declaration of acceleration has been made, but before the Trustee has exercised any other remedy specified in the Loan Agreement, the Mortgage or any Collateral Document, the Majority of Bondholders, by written notice to the Issuer, Borrower and the Trustee, may rescind and annul such declaration and its consequences if there has been paid to or deposited with the Trustee a sum sufficient to pay:

- (i) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel,
- (ii) all Defaulted Interest,

(iii) the principal of (and premium, if any, on) any Bonds which have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by such Bonds, and

(iv) to the extent that payment of such interest is lawful, interest upon Defaulted Interest at the rate borne by the Bonds; and

(C) All Events of Default, other than the non-payment of the principal of Bonds which have become due solely by such acceleration, have been cured or waived as provided in Section 7.16 hereof. No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 7.03. Other Remedies. If an Event of Default occurs and is continuing, then in every such case the Trustee may, and upon the written request by registered or certified mail to the Trustee by the Majority of Bondholders and upon receipt of satisfactory security or indemnification for the reimbursement of all expenses to which it may be put by reason of any action so taken, shall, exercise one (1) or more of the remedies specified in Section 9.2(b), (c), (d) and/or (e) of the Loan Agreement, in accordance with the provisions of Article IX of the Loan Agreement.

(A) If an Event of Default occurs and is continuing, then in every such case the Trustee may, and upon the written request by registered or certified mail to the Trustee by the Majority of Bondholders and upon receipt of satisfactory security or indemnification for the reimbursement of all expenses to which it may be put by reason of any action so taken, shall, exercise one (1) or more of the remedies specified in Section 9.2(b), (c), (d) and/or (e) of the Loan Agreement, in accordance with the provisions of Article IX of the Loan Agreement.

(B) The Trustee shall be entitled to sue for and recover judgment, either before or after or during the pendency of any proceedings for the enforcement of the lien of this Indenture, for the enforcement of any rights, or the rights of the Bondholders, but any such judgment against the Issuer shall be enforceable only against the Trust Estate. No recovery of any judgment by the Trustee shall in any manner or to any extent affect the lien of this Indenture or any rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers or remedies of the Bondholders, but such lien, rights, powers and remedies of the Trustee and of the Bondholders shall continue unimpaired as before.

(C) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Outstanding Bonds and the provisions hereof and of the Loan Agreement or the Limited Guaranty or the Mortgage.

Section 7.04. Application of Money.

(A) All money received by the Trustee or the Issuer pursuant to any right given or action taken under the provisions of this Article VII shall, after payment of the cost and expenses of the proceedings resulting in the collection of such money and of the expenses, liabilities and advances incurred or made by the Trustee or the Issuer and the creation of a reasonable reserve for anticipated fees, costs and expenses, and all money in the Trust Funds maintained by the Trustee under Article V hereof, shall be applied as follows:

(i) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such money shall be applied:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment to the persons entitled thereto, without any discrimination or privilege; and

SECOND: To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due (other than Bonds called for redemption and for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the Bonds due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bonds over any other Bonds, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(B) Whenever money is to be applied by the Trustee pursuant to the provisions of this Section 7.04, such money shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposits with it of any such money and of the fixing of any such date, and shall not be required to make payment to the Holder of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(C) Whenever all Bonds and interest thereon have been paid under the provisions of this Section 7.04 and all expenses and charges of the Trustee have been paid, any balance remaining shall be paid to the person entitled to receive the same; if no other person shall be entitled thereto, then the balance shall be paid to the Borrower.

Section 7.05. Bondholders or Trustee May Purchase; Purchaser May Apply Bonds Toward Purchase Price. At any sale of the property secured by the Mortgage or any Collateral Document, or any part thereof, under Article IX of the Loan Agreement, any Bondholder or Bondholders or the Trustee may bid for and purchase the property offered for sale, may make payment on account thereof as herein provided, and, upon compliance with the terms of such sale, may hold, retain and dispose of such property without further accountability therefor. In case of any sale of the property secured by the Mortgage or any Collateral Document, or any part thereof, under Article IX of the Loan Agreement, any purchaser shall be entitled, for the purpose of making payment for the property purchased, to use any Bonds then Outstanding and claims for interest, in order that there may be credited thereon the sums payable out of the net proceeds of such sale to the Holder of such Bonds and claims for interest as his ratable share of such net proceeds; and thereupon such purchaser shall be credited on account of such purchase price with the portion of such net proceeds that shall be applicable to the payment of, and shall have been credited upon, the Bonds and claims for interest so used.

Section 7.06. Receiver. Upon the occurrence of an Event of Default and commencement of judicial proceedings by the Trustee to enforce any right under this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, the Trustee shall be entitled, without notice or demand and without regard to the adequacy of the security for the Bonds or the solvency of the Borrower, to the appointment of a receiver or receivers of the Borrower, of the Trust Estate, the Mortgage Property and any other property and of the profits, revenues, rents, products, profit and other income thereof, but, notwithstanding the appointment of any receiver, the Trustee shall be entitled to retain possession and control of, and to collect and receive the income from, cash, securities and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder and to retain control of, and to collect and receive the income from, all property subject to the lien of the Mortgage and any Collateral Document.

Section 7.07. Collection of Indebtedness by the Trustee.

(A) If (i) default is made in the payment of any interest on any Bond when such interest becomes due and payable or (ii) default is made in the payment of the principal of (or premium, if any, on) any Bond as the same becomes due and payable, then the Trustee will cause the Borrower, on behalf of the Issuer, to pay to the Trustee for the benefit of the Holders of such Bonds the whole amount then due and payable on such Bonds, for principal, premium, if any, and interest, with interest at the respective rates prescribed in the Bonds on overdue principal (and premium, if any) and (to the extent that payment of such interest is legally enforceable) on Defaulted Interest; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel. If the Borrower fails to pay such amounts forthwith upon demand the Trustee, in its own name and as trustee of an express trust, shall be entitled to sue for and recover judgment against the Borrower for the whole amount so due and unpaid.

(B) The Trustee shall be entitled to sue and recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of the lien of this Indenture, the Mortgage or any Collateral Document and in case of a sale of the Trust Estate and the application of the proceeds of sale as aforesaid, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon the Outstanding Bonds, for the benefit of the Holders thereof, and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid. No recovery of any such judgment upon any property of the Borrower shall affect or impair the lien of this Indenture upon the Trust Estate or any rights, powers or remedies of the Trustee hereunder, or any rights, powers or remedies of the Holders of the Bonds.

Section 7.08. Trustee May File Proofs of Claims. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or the Borrower or any other obligor upon the Bonds or the property of the Issuer or the Borrower or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer and/or the Borrower for the payment of overdue principal or Defaulted Interest) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(A) to file and prove a claim for the whole amount of principal, premium, if any, and interest owing and unpaid in respect of the Bonds then Outstanding and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the

reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Bondholders allowed in such judicial proceedings; and

(B) to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same;

and any receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Bondholder to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Bondholders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements, and advances of the Trustee, its agents and counsel.

So long as Bonds are Outstanding the Trustee is hereby appointed, and the successive respective Bondholders, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee, the true and lawful attorney in fact of the respective Bondholders, with authority to make or file, in the respective names of the Bondholders or on behalf of all Bondholders, as a class, any proof of debt, amendment to proof of debt, petition or other documents and to execute any other papers and documents and to do and perform any and all acts and things for and on behalf of all Bondholders as a class, as may be necessary or advisable in the opinion of the Trustee, in order to have the respective claim of the Bondholders against the Issuer, the Borrower or any other obligor allowed in receivership, insolvency, liquidation, bankruptcy or other proceeding, to which the Issuer, the Borrower or any other obligor, as the case may be, shall be a party. The Trustee shall have full power of substitution and delegation in respect of any such powers.

Section 7.09. Trustee May Enforce Claims without Possession of Bonds. All rights of action and claims under this Indenture, the Bonds, the Loan Agreement, the Mortgage, or any Collateral Document may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of Holders of the Bonds in respect of which such judgment has been recovered.

Section 7.10. Limitation on Suits. No Holder shall have any right to institute any proceedings, judicial or otherwise, with respect to this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, or for the appointment of a receiver or trustee, or for any remedy hereunder or thereunder, unless:

(A) such Holder shall previously have given written notice to the Trustee of a continuing Event of Default;

(B) the Majority of Bondholders shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(C) such Holder or Holders shall have offered the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(D) the Trustee for sixty (60) days after its receipt of such written request and offer of indemnity has failed to institute any such proceeding; and

(E) no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Majority of Bondholders;

it being understood and intended that no one (1) or more Holders shall have any right, in any manner whatever, by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders or to obtain or seek to obtain priority or preferences over any other Holders or to enforce any right under this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, except in the manner herein provided and for the equal and ratable benefit of all the Holders then Outstanding.

Section 7.11. Unconditional Right of Bondholders to Receive Principal, Premium and Interest. Notwithstanding any other provision in this Indenture, the Holder of any Bond shall have the right, which is absolute and unconditional, to receive payment of the principal of, premium, if any, and interest on such Bond on the Stated Maturity expressed in such Bond (or, in the case of redemption, on the Redemption Date or Sinking Fund Payment Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

Section 7.12. Restoration of Positions. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture, the Loan Agreement, the Mortgage, or any Collateral Document, by foreclosure, entry or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Borrower, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 7.13. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, but every such right or remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or under the Loan Agreement, the Mortgage or any Collateral Document, or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or under the Loan Agreement, the Mortgage or any Collateral Document or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 7.14. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence therein. Every right and remedy given by this Article VII, or under the Loan Agreement, the Mortgage or any Collateral Document, or by law, to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 7.15. Control by Holders. The Majority of Bondholders shall have the right, during the continuance of an Event of Default,

(A) to require the Trustee to proceed to enforce this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, either by judicial proceedings for the enforcement of the payment of the Bonds or the foreclosure of the Mortgage or the enforcement of any other remedy; and

(B) to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee hereunder, or under the Loan Agreement, the Mortgage or any Collateral Document; provided that:

- (i) such direction shall not be in conflict with any rule of law or with this Indenture;
- (ii) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders not taking part in such direction; and
- (iii) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, each representing less than a Majority of Bondholders, the Trustee, in its sole discretion, may determine what action, if any, will be taken.

Section 7.16. Waiver of Past Defaults. Any Event of Default under Section 7.01(D) hereof shall be automatically waived, rescinded and annulled if the corresponding “Event of Default” under the Loan Agreement shall be waived, rescinded and annulled pursuant to, and in accordance with the provisions of, Section 9.1 of the Loan Agreement. Before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due has been obtained by the Trustee as provided in this Article, the Holders of not less than two-thirds in principal amount of the Bonds Outstanding may, by act of such Holders delivered to the Trustee and the Borrower, on behalf of all Holders waive any past default hereunder and its consequences, except a default:

- (A) in the payment of the principal of (or premium, if any) or interest on any Bond; or
- (B) in respect of a covenant or provision hereof which under Article X cannot be modified or amended without the consent of the Holder of each Outstanding Bond affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 7.17. Undertaking for Costs. The Borrower in the Loan Agreement has agreed and all parties to this Indenture agree, and each Holder of any Bond by their acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee or Issuer for any action taken or omitted by it as Trustee or Issuer, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys’ fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 7.17 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders comprising a Majority of Bondholders, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of, premium, if any, or interest on any Bond on or after the Stated Maturity expressed in such Bond solely from the revenues pledged therefor (or, in the case of redemption, on or after the Redemption Date).

Section 7.18. Suits to Protect the Trust Estate and Other Property. The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate or the property secured by the Mortgage or any Collateral Document by any acts which

may be unlawful or in violation of this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, and to protect its interests and the interests of the Holders in the Trust Estate and in the issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair the security hereunder or thereunder or be prejudicial to the interest of the Holders or the Trustee.

Section 7.19. Rights under Loan Agreement. The Issuer, in the Granting Clauses, has pledged and granted a security interest in all of its rights in the Loan Agreement (other than the Issuer's Unassigned Rights) to the Trustee, and the Trustee in its name or in the name of the Issuer may enforce all rights and remedies of the Issuer under and pursuant to the Loan Agreement (except with respect to the Issuer's Unassigned Rights, which may be enforced directly by the Issuer).

Section 7.20. Waiver by Issuer. Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived, neither the Issuer, nor anyone claiming through or under it, shall set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension, or redemption laws of any jurisdiction now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture, and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

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ARTICLE VIII

THE TRUSTEE

Section 8.01. Certain Duties and Responsibilities.

(A) Except during the continuance of an Event of Default,

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture, the Loan Agreement, the Mortgage or any Collateral Document against the Trustee; and

(ii) in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, the Mortgage and the Loan Agreement; but in the case of any such certificates or opinions which by any provisions hereof, the Mortgage or the Loan Agreement are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, the Mortgage or the Loan Agreement.

(B) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(C) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection (C) shall not be construed to limit the effect of subsection (A) above;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Majority of Bondholders relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture, the Loan Agreement, the Mortgage or any Collateral Document shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 8.01.

Section 8.02. Notice of Event of Default. Within ninety (90) days after the occurrence of any default hereunder, the Trustee shall transmit by mail to all Holders notice of such default hereunder known to a Responsible Officer of the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of, premium, if any, or interest on any Bond, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders; and provided, further, that in the case of any default of the character specified in Section 7.01(C) hereof no such notice to Holders shall be given until at least thirty (30) days after the occurrence thereof.

Section 8.03. Certain Rights of Trustee. Except as otherwise provided in Section 8.01 hereof:

(A) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(B) any request or direction of the Issuer or the Borrower mentioned herein shall be sufficiently evidenced by an Issuer Request, Issuer Order, Borrower Request or Borrower Order and any resolution of the Issuer's governing body or resolution of the Board of the Borrower may be sufficiently evidenced by an Issuer Resolution or Borrower Resolution;

(C) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of negligence or willful misconduct on its part, rely upon an Issuer Certificate or Borrower Certificate;

(D) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in the absence of negligence or willful misconduct;

(E) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture, the Loan Agreement, the Mortgage or any Collateral Document, at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(F) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, coupon or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Borrower, personally or by agent or attorney;

(G) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder or under the Loan Agreement, the Mortgage or any Collateral Document, either directly or by

or through agents or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(H) the Trustee shall not be personally liable, in case of entry by it upon the Project, for debts contracted or liabilities or damages incurred in the management or operation of the Trust Estate.

Section 8.04. Not Responsible for Recitals or Issuance of Bonds. The recitals contained herein and in the Bonds, except the Trustee's certificate of authentication on the Bonds, shall not be taken as the statements of the Trustee, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the value or condition of the Project or any part thereof, or as to the title of the Borrower thereto or as to the security afforded thereby or hereby or as to the validity or sufficiency of this Indenture, the Loan Agreement, the Mortgage, any Collateral Document, or of the Bonds.

Section 8.05. May Hold Bonds. The Trustee or any other agent of the Issuer, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer and/or the Borrower with the same rights it would have if it were not Trustee or such other agent.

Section 8.06. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder.

Section 8.07. Compensation and Reimbursement. As security for the performance of the obligations of the Borrower to make Additional Payments to the Trustee under Section 4.3 of the Loan Agreement and to indemnify the Trustee under Section 7.7 of the Loan Agreement, the Trustee shall, except as to money and/or Government Obligations held by the Trustee for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article VI hereof, be secured under this Indenture by a lien prior to the Bonds; and for the payment of such compensation, expenses, reimbursements and indemnity the Trustee shall have the right to use and apply any Trust Money, held by it except money and/or Government Obligations held by the Trustee pursuant to Article VI hereof as aforesaid.

Section 8.08. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee hereunder which shall be a corporation or national banking association organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by a federal or state authority. If such entity publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 8.08, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.08, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VIII.

Section 8.09. Resignation and Removal; Appointment of Successor.

(A) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VIII shall become effective until the acceptance of appointment by the successor Trustee under Section 8.10 hereof.

(B) The Trustee may resign at any time by giving written notice thereof to the Issuer and the Borrower. If an instrument of acceptance by a successor Trustee shall not have been delivered to the

Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee and the Borrower shall be responsible for any costs associated with such petition.

(C) The Trustee may be removed upon thirty (30) days' notice at any time by Borrower Order, provided that no Event of Default under the Loan Agreement has occurred and is continuing, and that no act or omission of the Borrower has occurred which would be an Event of Default under the Loan Agreement but for the giving of notice or the passage of time.

(D) If at any time the Trustee shall cease to be eligible under Section 8.08 hereof and shall fail to resign after written request therefor by the Issuer, the Borrower or by any Holder, or the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (i) the Issuer by a Issuer Resolution may remove the Trustee; or (ii) any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(E) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Issuer, by an Issuer Resolution, shall promptly appoint a successor Trustee acceptable to the Borrower, whose acceptance shall not be unreasonably withheld. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a successor to fill a vacancy until a new Trustee shall be so appointed by the Holders. If, within one (1) year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by act of the Majority of Bondholders delivered to the Issuer, the retiring Trustee and the Borrower, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Issuer. If no successor Trustee shall have been so appointed by the Issuer or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(F) The Borrower shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Holders. Each notice shall include the name of the successor Trustee and the address of its principal corporate trust office.

(G) The Trustee may be removed at any time upon thirty (30) days written notice with notice by an instrument or one or more concurrent instruments in writing delivered personally or sent by private overnight delivery service to the Trustee, the Issuer, the Borrower and signed by Bondholders who in the aggregate qualify as the Majority of Bondholders or by their attorneys or agents in fact duly authorized; provided, however, that such removal by the Majority of Bondholders shall not take effect until the appointment of a successor Trustee. For avoidance of doubt, the Majority of Bondholders may simultaneously remove the Trustee and appoint a successor Trustee. If the successor has not been appointed within such thirty (30) day period, the Trustee may petition any court of competent jurisdiction in the State for the appointment of a successor.

Section 8.10. Acceptance of Appointment by Successor Trustee.

(A) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and to the Borrower and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument or instruments transferring to such successor Trustee all the rights, powers, and trusts of the retiring Trustee in and to all property and money held by such retiring Trustee hereunder or under the Loan Agreement, Mortgage or any Collateral Document, subject nevertheless to its lien, if any, provided for in Section 8.07 hereof. Upon request of any such successor Trustee, the Issuer and the Borrower shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(B) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article VIII, to the extent operative.

Section 8.11. Merger, Conversion, Consolidation or Successor to Business. Any corporation or national banking association into which the Trustee may be merged or converted or with which it may be consolidated or which it may sell or transfer, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the municipal corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such entity shall be otherwise qualified and eligible under this Article VIII, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

Section 8.12. Trustee and Loan Agreement. Reference is hereby made to the Loan Agreement, wherein it is provided that the Trustee will accept certain duties, perform or consent to certain acts, receive certain documents and exercise certain rights and remedies under such Loan Agreement, the Mortgage and any Collateral Document. The Trustee hereby consents to such terms and provisions contained in the Loan Agreement and covenants and agrees to accept such duties, perform such acts and receive such documents thereunder as is expressly set forth therein on the terms and conditions therein specified. The Trustee hereby covenants and agrees to exercise all rights and remedies set forth in the Loan Agreement relating to the Loan Agreement, the Mortgage and any Collateral Document as the Trustee deems necessary and proper, employing the standards set forth in Section 8.01 hereof, in the best interests of the Holders.

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ARTICLE IX

AMENDMENT OF LOAN AGREEMENT, MORTGAGE AND COLLATERAL DOCUMENTS

Section 9.01. Amendment to Loan Agreement, Mortgage and Collateral Documents Without Consent of Holders. Without the consent of the Holders, the Trustee, at any time and from time to time, may consent to one (1) or more amendments or supplements to the Loan Agreement, the Mortgage or any Collateral Document, in form satisfactory to the Trustee, for any of the following purposes:

(A) to correct or amplify the description of any property at any time subject to the Loan Agreement, the Mortgage, or any Collateral Document, or better to assure, convey and confirm unto the Trustee any property subject or required to be subject to the Loan Agreement, the Mortgage, or any Collateral Document, or to subject to the Loan Agreement, the Mortgage, or any Collateral Document, additional property;

(B) to add to the conditions, limitations and restrictions of the Borrower in the Loan Agreement, the Mortgage, or any Collateral Document other conditions, limitations and restrictions thereafter to be observed;

(C) to consent to the creation of any series of Additional Bonds, as provided in Article IV hereof, including therein any amendment of the Loan Agreement to provide for increased Loan Repayments to pay the debt service on such Additional Bonds and, if necessary, Additional Payments, to provide terms and conditions relating to the acquisition, construction, installation and equipping of any Related Facilities, Improvement or Unrelated Improvement financed with the proceeds of such series of Additional Bonds, or to subject to the lien of the Mortgage such Related Facilities, Improvement or Unrelated Improvement;

(D) to evidence the succession of another corporation to the Borrower in accordance with the provisions of Section 7.4 of the Loan Agreement, and the assumption by any such successor of the covenants of the Borrower contained in the Loan Agreement, the Mortgage, and any Collateral Document, or to evidence the succession of any successor Trustee under the provisions of Article VIII hereof;

(E) to add to the covenants of the Borrower or to surrender any right or power conferred upon the Borrower;

(F) to add any property or other right to the lien of the Mortgage or any Collateral Document, or to release any property (or undivided interest therein) or other right from the Mortgage or any Collateral Document when made in accordance with, and subject to the provisions of, the Loan Agreement, the Mortgage or any Collateral Document;

(G) to eliminate, modify, or add any provision which in the Opinion of Bond Counsel is necessary or desirable in order to preserve the exemption of interest on the Tax-Exempt Bonds from federal income taxation;

(H) to cure any ambiguity, to correct or supplement any provision of the Loan Agreement, the Mortgage, or any Collateral Document that may be inconsistent with any other provision of the Loan Agreement, the Mortgage, or any Collateral Document, or to make any other provisions with respect to matters or questions arising under the Loan Agreement, the Mortgage, or any Collateral Document, which shall not be inconsistent with the provisions thereof or this Indenture, provided such action shall not adversely affect (as described in Section 9.02(B) hereof) the interests of the Holders of the Bonds;

(I) to release property from the Mortgage in accordance with the requirements of Section 4.7 of the Mortgage; or

Section 9.02. Amendment to Loan Agreement, Mortgage or Collateral Documents with Consent of Holders.

(A) With the consent of a Majority of the Bondholders which are affected by such amendment to the Loan Agreement, the Mortgage or any Collateral Document delivered to the Issuer and the Trustee, the Issuer, when authorized by an Issuer Resolution, and the Trustee may enter into an amendment or amendments to the Loan Agreement or an amendment or amendments or a supplement or supplements to the Mortgage or any Collateral Document for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Loan Agreement, the Mortgage or any Collateral Document; provided, however, that no such amendment shall, without the consent of seventy-five percent (75%) of the Holders affected thereby,

(i) reduce the aggregate amount of Loan Repayments and Additional Payments payable under the Loan Agreement, or allow any installment of Loan Repayments or Additional Payments to be paid subsequent to the time needed for the payment of principal of, premium, if any, and interest on the Bonds;

(ii) modify any of the provisions of the Loan Agreement, the Mortgage or any Collateral Document to eliminate the requirement that the Trustee consent to every amendment thereto; or

(iii) release from the lien of the Mortgage or any Collateral Document any of the property secured thereby, or permit the creation of any lien ranking prior to or on a parity with the lien of the Mortgage on the Mortgaged Property or the lien of this Indenture on any part of the Trust Estate, except as expressly permitted by this Indenture, the Loan Agreement, the Mortgage or any Collateral Document.

(B) For all purposes of this Section 9.02, Bonds shall be deemed to be “affected” by an amendment if such amendment adversely affects or diminishes the rights of Holders thereof to be assured of the payment of principal of, premium, if any, and interest on the Bonds. If the Trustee receives an Opinion of Counsel to the effect that Holders will not be adversely affected such determination shall be conclusive upon the Holders, whether theretofore or thereafter authenticated and delivered hereunder.

(C) It shall not be necessary for any act of Holders under this Section 9.02 to approve the particular form of any proposed amendment or supplement to the Loan Agreement, the Mortgage or any Collateral Document, but it shall be sufficient if such act shall approve the substance thereof.

(D) If at any time the Issuer requests the Trustee to enter into any such supplemental documentation for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental documentation, together with a copy of the proposed supplemental indenture to be posted on EMMA and given to the Bondholders through the Depository to the Holder(s) required by the terms of this Indenture to be kept at the designated corporate trust office of the Trustee. Such notices shall be prepared by the Borrower on behalf of the Issuer and shall briefly set forth the nature of the proposed supplemental indenture. If, within thirty (30) days following such notices, the required Bondholder consents shall have been received by the Trustee, no Bondholder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the

propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 9.03. Consent to Amendments. In consenting to an amendment to the Loan Agreement or the execution of an amendment or supplement to the Mortgage or any Collateral Document permitted by this Article IX, the Trustee and the Issuer shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such consent or amendment or supplement is authorized or permitted by this Indenture and an Opinion of Bond Counsel that such amendment or supplement will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond. The Trustee and Issuer may, but shall not be obligated to, enter into any such amendment or supplement that affects the Trustee's or Issuer's own rights, duties or immunities under this Indenture or otherwise.

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ARTICLE X

SUPPLEMENTAL INDENTURES

Section 10.01. Supplemental Indentures without Consent of Holders. Without the consent of the Holders, the Issuer, when authorized by an Issuer Resolution, and the Trustee, at any time and from time to time, may enter into one (1) or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(A) to correct or amplify the description of the Trust Estate, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture, or to subject to the lien of this Indenture additional property, or to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;

(B) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Bonds or of any series of Bonds, as herein set forth, other conditions, limitations and restrictions thereafter to be observed;

(C) to provide for the issuance of any series of Additional Bonds, as provided in, and subject to the conditions and requirements of, Article IV hereof;

(D) to add to the covenants of the Issuer, for the benefit of the Holders of the Bonds or of any series of Bonds, or to surrender any right or power herein conferred upon the Issuer;

(E) to add, modify or eliminate any provision which, in the opinion of Bond Counsel, it is necessary or desirable to add, modify or eliminate in order to preserve the exemption of interest on the Tax-Exempt Bonds from federal income taxation;

(F) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture which shall not be inconsistent with the provisions of this Indenture, provided such action shall not adversely affect (as described in Section 10.02 hereof) the interests of the Holders; or

(G) to provide for the defeasance or redemption of any series of Bonds.

Section 10.02. Supplemental Indentures with Consent of Holders. With the consent of a Majority of Bondholders which are affected by such Supplemental Indenture, by act of said Holders delivered to the Issuer, the Borrower and the Trustee, the Issuer, when authorized by an Issuer Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders under this Indenture other than as set forth in Section 10.01 hereof; provided, however, that no such Supplemental Indenture shall, without the consent of seventy-five percent (75%) of the Holders affected thereby,

(A) change the Stated Maturity of the principal of, or any Interest Payment Date of, any Bond, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change the coin or currency in which any Bond or the premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date);

(B) reduce the percentage in principal amount of the Outstanding Bonds the consent of whose Holders is required for any such Supplemental Indenture, or the consent of whose Holders is required for any amendment or supplement to the Loan Agreement, the Mortgage or any Collateral Document, or for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture;

(C) modify any of the provisions of this Section 10.02 or Section 7.16 hereof, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of each Holder affected thereby; or

(D) permit the creation of any lien ranking prior to or on a parity (except the lien of Additional Bonds) with the lien of this Indenture on any part of the Trust Estate or reduce the preferences herein expressly provided for Bonds or terminate the lien of this Indenture on any property at any time subject hereto, except as otherwise expressly provided herein.

For all purposes of this Section 10.02, Bonds shall be deemed to be “affected” by a Supplemental Indenture if such Supplemental Indenture adversely affects or diminishes the rights of Holders thereof against the Issuer or the Trust Estate. If the Trustee receives an Opinion of Counsel to the effect that Holders will not be adversely affected any such determination shall be conclusive upon the Holders, whether theretofore or thereafter authenticated and delivered hereunder.

It shall not be necessary for any act of Holders under this Section 10.02 to approve the particular form of any proposed supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 10.03. Execution of Supplemental Indentures. In executing or accepting the additional trust created by any Supplemental Indenture permitted by this Article X or the modification thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture and an Opinion of Bond Counsel that such Supplemental Indenture will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise.

If at any time the Issuer requests the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture, together with a copy of the proposed supplemental indenture to be posted on EMMA and given to the Bondholders through the Depository to the Holder(s) required by the terms of Section 2.8 of this Indenture to be kept at the designated corporate trust office of the Trustee. Such notices shall be prepared by the Company on behalf of the Issuer and shall briefly set forth the nature of the proposed supplemental indenture. If, within thirty (30) days following such notices, the required Bondholder consents shall have been received by the Trustee, no Bondholder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 10.04. Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture under this Article X, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes and every Holder shall be bound thereby.

Section 10.05. Reference in Bonds to Supplemental Indentures. Bonds authenticated and delivered after the execution of any Supplemental Indenture pursuant to the provisions of this Article X may, and shall, if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Issuer shall so determine, new Bonds so modified as to conform in the opinion of the Trustee and the Issuer to any such Supplemental Indenture may be prepared and executed by the appropriate officials of the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Bonds.

Section 10.06. Consent of Borrower. The Trustee must obtain a Borrower Consent prior to any Supplemental Indenture becoming effective, unless there is a subsisting Event of Default by the Borrower under the Loan Agreement.

ARTICLE XI

COVENANTS

Section 11.01. Payment of Principal, Premium and Interest. Solely from the money derived from the Loan Agreement (other than to the extent payable out of proceeds of the Bonds, amounts in the Trust Funds, the Net Proceeds of insurance or condemnation awards or proceeds of the sale or other disposition of the Mortgaged Property under the Mortgage), the Issuer will duly and punctually pay the principal of, premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and this Indenture. Money derived from the Loan Agreement includes all money derived from the Granting Clauses set forth herein, including but not limited to Loan Repayments under the Loan Agreement and Trust Money deposited under this Indenture. Nothing in the Bonds or in this Indenture or the Loan Agreement shall be considered as assigning or pledging funds or assets of the Issuer other than those covered by the Granting Clauses set forth herein.

Section 11.02. Unclaimed Money. Any money deposited with the Trustee pursuant to the terms of this Indenture for the payment or redemption of Bonds, or the payment of interest on Bonds that remains unclaimed by the Holders of the Bonds on the date fixed for the payment or redemption of such Bonds, shall be transferred to the appropriate governmental authorities upon the expiration of the escheat period in accordance with the escheat laws applicable to each of the Holders of the Bonds.

Section 11.03. Tax-Free Nature of the Tax-Exempt Bonds. The Issuer covenants and agrees for the benefit of the Bondholders that it shall not permit any thing or act under its control to be done intentionally which the Issuer knows would result in loss of tax exemption of interest on the Tax-Exempt Bonds that are purported to be tax exempt under the Code and the regulations promulgated thereunder. The Trustee covenants and agrees for the benefit of the Bondholders that it shall not permit any thing or act under its control to be done intentionally which the Trustee knows would result in loss of tax exemption of interest on the Tax-Exempt Bonds that are purported to be tax exempt under the Code and the regulations promulgated thereunder.

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ARTICLE XII

REDEMPTION

Section 12.01. Right of Redemption. The Bonds of any series are subject to redemption as provided in this Article XII and in the Supplemental Indenture creating such series (except with respect to the Series 2025A Bonds and Series 2025A-T Bonds, as to which no Supplemental Indenture is necessary).

Section 12.02. Election to Redeem; Notice to Trustee. With respect to redemption pursuant to Section 3.05(A) or (B) hereof, the election of the Borrower to redeem any Bonds shall be evidenced by a Borrower Order. The Borrower shall, not less than forty-five (45) days prior to the Redemption Date fixed by the Borrower (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Bonds of such series to be redeemed. Any redemption of Term Bonds made in accordance with Section 3.05 hereof or a similar provision of a Supplemental Indenture shall not require any action by the Borrower.

Section 12.03. [Reserved].

Section 12.04. Selection by Trustee of Bonds to Be Redeemed.

(A) If less than all of the Outstanding Bonds of any series are to be redeemed, the Borrower may specify, by Borrower Order, the Stated Maturities of the Bonds to be redeemed or may instruct the Trustee to redeem Bonds by random selection. If less than all Bonds of a single Stated Maturity are to be redeemed, the particular Bonds to be redeemed shall be selected by the Trustee from the Outstanding Bonds of that Stated Maturity not previously called for redemption, by random selection or in such manner as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions of the principal of Bonds in a denomination larger than \$5,000 or the smallest Authorized Denomination of the Bonds of that series.

(B) The Trustee shall promptly notify the Issuer and the Borrower in writing of the Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

(C) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed only in part, to the portion of the principal of such Bond which has been or is to be redeemed.

(D) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the Issuer or the Bond Registrar will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed.

Section 12.05. Notice of Redemption.

(A) Except as provided in Section 12.03 hereof, the Trustee shall mail notice of redemption by first-class mail, postage prepaid, not more than sixty (60) nor less than thirty (30) days prior to the Redemption Date, to each Holder of Bonds to be redeemed; but no defect in any notice so mailed shall affect the validity of the proceedings for redemption as to any Bond not affected by such defect.

(B) No notice of redemption need be given if the Holders of all Bonds called for redemption waive notice thereof in writing and such waiver is filed with the Trustee. In addition, pursuant to a Borrower Request, notice for any redemption not occurring as a result of sinking fund redemption or as a mandatory requirement of the terms of the Bonds, shall include a statement that the redemption so noticed is conditioned on sufficient funds being held by the Trustee in the Debt Service Fund or Optional Redemption Fund on or before noon, Minneapolis, Minnesota time, on the applicable Redemption Date to pay the full Redemption Price, and if at such time the amount so held is not sufficient to pay all amounts required to effect the noticed redemption in full, the redemption shall be cancelled, with all Bonds tendered for such redemption being returned to the Holders thereof, and no Event of Default or liability on the part of the Borrower shall arise as a result of such cancellation. The Borrower shall pay all extraordinary fees and expenses incurred in connection with a rescinded call.

(C) All notices of redemption shall state:

- (i) the Redemption Date;
- (ii) the Redemption Price;
- (iii) the principal amount of Bonds of each series to be redeemed, and, if less than all Outstanding Bonds of a series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds of such series to be redeemed;
- (iv) that on the Redemption Date, the Redemption Price will become due and payable upon each such Bond, and that interest thereon shall cease to accrue on and after such date;
- (v) the place or places where such Bonds are to be surrendered for payment of the Redemption Price;
- (vi) if it be the case, that such Bonds are to be redeemed by the application of certain specified Trust Money or for certain specified reasons; and
- (vii) such other information as may be required by DTC, so long as any Bonds are registered in the name of Cede & Co.

(D) Notwithstanding the foregoing, so long as the Bonds are registered in the name of Cede & Co., notice of redemption shall be given in accordance with the terms of the Letter of Representations.

Section 12.06. Deposit of Redemption Price. On or prior to each Redemption Date, the Borrower shall deposit with the Trustee an amount of money and at a time sufficient to pay the Redemption Price of all the Bonds to be redeemed on that date. The deposit for redemption of Bonds on a Redemption Date is not required hereunder prior to the Trustee sending a notice of redemption pursuant to Section 12.05 hereof.

Section 12.07. Bonds Payable on Redemption Date.

(A) Notice of redemption having been given as aforesaid, the Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and on and after such date (unless the Borrower shall default in the payment of the Redemption Price) such Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with such notice, such Bond shall be paid at the Redemption Price. Installments of interest whose Stated Maturity is

on or prior to the Redemption Date shall continue to be payable to the Holders of Bonds registered as such on the relevant Record Dates according to the terms of such Bonds and Section 2.09 hereof.

(B) If any Bond called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date or Sinking Fund Payment Date at the rate prescribed by the Bond.

Section 12.08. Bonds Redeemed in Part. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (with, if the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the appropriate officials of the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds of the same series, of any Authorized Denominations, as requested by such Holder, having the same Stated Maturity and interest rate in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

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ARTICLE XIII

SECONDARY MARKET DISCLOSURE

Section 13.01. Secondary Market Disclosure. Pursuant to Section 7.13 of the Loan Agreement and the Continuing Disclosure Agreement, the Borrower has undertaken all responsibility for compliance with continuing disclosure requirements, and the Issuer shall not have any liability to the Holders of the Bonds or any other person with respect to S.E.C. Rule 15c2-12. Notwithstanding any other provision of this Indenture, failure of the Borrower or the Dissemination Agent to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of Outstanding Bonds, shall, subject to Section 8.03(E) hereof) or any Bondholder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under Section 7.13 of the Loan Agreement or to cause the Dissemination Agent to comply with its obligations under the Disclosure Agreement.

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ARTICLE XIV

MISCELLANEOUS

Section 14.01. Compliance Certificates and Opinions.

(A) Upon any application or request by the Issuer or the Borrower to the Trustee or the Borrower to the Issuer to take any action under any provision of this Indenture, the Mortgage or the Loan Agreement, the Issuer or the Borrower shall furnish the Issuer or the Trustee, as the case may be, an Issuer Certificate or a Borrower Certificate, as applicable, stating that all conditions precedent, if any, provided for in this Indenture, the Mortgage or the Loan Agreement relating to the proposed action have been complied with and an Opinion of Counsel opining that all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of a Borrower Certificate and an Opinion of Counsel is specifically required by any provision of this Indenture, the Mortgage or the Loan Agreement relating to such particular application or request, no additional certificate or opinion need be furnished.

(B) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture or the Loan Agreement shall include:

(i) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(ii) a statement that, in the opinion of each such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with;

(iii) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with; and

(iv) when such opinion or certificate is required to be given by a Person who is Independent, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the signer is Independent within the meaning thereof.

Section 14.02. Form of Documents Delivered to Trustee.

(A) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one (1) such Person, or that they be so certified or covered by only one (1) document, but one (1) such Person may certify or give an opinion with respect to some matters and one (1) or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one (1) or several documents.

(B) Any certificate or opinion of an officer of the Issuer or the Borrower may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer or the Borrower stating that the information with respect to such factual matters is in the possession of the Issuer or the Borrower, unless

such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(C) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under the Loan Agreement or this Indenture, they may, but need not, be consolidated and form one (1) instrument.

(D) An “application” for the authentication and delivery of Bonds, or the release of property, or the withdrawal of cash, under any provision of the Loan Agreement or this Indenture, shall consist of, and shall not be deemed complete until the Issuer or the Trustee, as the case may be, shall have been furnished with, all such documents, cash, bonds, securities and other instruments as are required by such provision to establish the right of the Issuer or the Borrower to the transaction applied for, and the date of such application shall be deemed to be the date upon which such application shall be so completed.

(E) Wherever in the Loan Agreement or this Indenture, in connection with any application or certificate or report to the Issuer or the Trustee, as the case may be, it is provided that the Issuer or the Borrower shall deliver any document as a condition of the granting of such application, or as evidence of the Issuer’s or Borrower’s compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such application or at the effective date of such certificate or report (as the case may be), of the facts and opinions stated in such document shall in each such case be conditions precedent to the right of the Issuer or Borrower to have such application granted or to the sufficiency of such certificate or report.

Section 14.03. Acts of Holders.

(A) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one (1) or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer and/or the Borrower. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 2.10 hereof) conclusive in favor of the Trustee, the Issuer and the Borrower if made in the manner provided in this Section 14.03.

(B) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Persons executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(C) The fact and date of execution of any such instrument or writing may also be provided in any other manner which the Trustee deems sufficient; and the Trustee may in any instance require further proof with respect to any of the matters referred to in this Section 14.03.

(D) The ownership of Bonds shall be proved by the Bond Register.

(E) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder shall bind every future Holder of the same Bond and the Holder of every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee, the Issuer or the Borrower in reliance thereon, whether or not notation of such action is made upon such Bond.

Section 14.04. Notices to Trustee, Issuer, Borrower, Etc. Any request, demand, authorization, direction, notice, consent of Bondholders or other document provided or permitted by this Indenture shall be sufficient for any purpose under this Indenture, the Loan Agreement, or the Mortgage, when given by Electronic Notice, delivered by commercial overnight delivery service with delivery confirmed, or hand delivered or mailed by either first-class or registered mail, return receipt requested, postage prepaid (except as otherwise provided in this Indenture) at the following addresses (or such other address as may be provided by any party by notice) and shall be deemed to be effective upon receipt:

To the Issuer:	City of Brainerd 501 Laurel Street Brainerd, MN 56401 Attention: City Administrator
To the Borrower:	Country Manor Campus Brainerd LLC 520 First Street NE Sartell, MN 56377 Attention: _____
With a copy to:	Wornson Goggins Zard Neisen Morris & Brever, PC 119 East Main Street New Prague, MN 56071 Attention: Eric B. Brever, Esq.
To the Trustee:	U.S. Bank Trust Company, National Association 111 East Fillmore Avenue EP-MN-WS3C Saint Paul, MN 55107 Attention: Corporate Trust Services
To the Original Purchaser of the Series 2025A Bonds and Series 2025A-T Bonds:	Colliers Securities LLC 90 South Seventh Street, Suite 4300 Minneapolis, MN 55402 Attention: Public Finance

Section 14.05. Notices to Bondholders; Waiver. Where this Indenture provides for notice to Bondholders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Bondholder affected by such event, at his or her or its address as it appears on the Bond Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Bondholders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Bondholder shall affect the sufficiency of such notice with respect to other Bondholders. Where this Indenture provides for “notice in any manner,” such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the

equivalent of such notice. Waivers of notice by Bondholders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.06. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 14.07. Successors and Assigns. All covenants and agreements in this Indenture by the Issuer shall bind its successors, whether so expressed or not.

Section 14.08. Separability Clause. In case any provision in this Indenture or in the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.09. Execution and Counterparts. This Indenture may be executed in any number of counterparts. All such counterparts shall be deemed to be originals and shall together constitute one (1) and the same instrument.

Section 14.10. Construction. This Indenture shall be construed in accordance with the laws of the State.

Section 14.11. Benefit of Indenture. Nothing in this Indenture or in the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the Borrower and the Holders, any benefit or other legal or equitable right, remedy or claim under this Indenture.

Section 14.12. Limitation of Liability. It is understood and agreed by the Trustee and the Holders that no covenant, provision or agreement of the Issuer herein or in the Bonds or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Bonds, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to the Loan Agreement and the application of revenues therefrom for payment of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement therein shall subject the Issuer to liability for any claim for damages, cost or other financial or pecuniary charges except to the extent that the same can be paid or recovered from the Loan Agreement or revenues therefrom or proceeds of the Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to the Loan Agreement and the application of revenues hereunder as hereinabove provided. The Bonds constitute special, limited obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to the Loan Agreement and this Indenture, and do not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, the State or any political subdivision thereof or a charge against the Issuer's general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Holders that the Issuer shall incur no pecuniary liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment of the Bonds.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

Section 14.13. Respecting the Loan Agreement.

(A) With regard to any alleged default concerning which notice is given to the Borrower under the provisions of Section 7.01(C) hereof, the Issuer hereby appoints the Borrower as its attorney, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform; provided that the Borrower shall first give the Issuer notice of its intention so to perform on behalf of the Issuer.

(B) Certain of the covenants of the Issuer hereunder will be assumed by the Borrower in the Loan Agreement, and, while the Loan Agreement remains in full force and effect, the obligations shall be the responsibility of the Borrower, or, if the Loan Agreement is terminated, then such covenants are enforceable only to the extent of the revenues derived from the property subject to the lien of the Mortgage or any Collateral Document, or from the Trust Money held by the Trustee.

(C) The rights and duties given under this Indenture to the Borrower shall be applicable only while the Loan Agreement is in full force and effect.

Section 14.14. Electronic Signatures.

(A) The parties agree that the electronic signature of a party to this Indenture shall be as valid as an original signature of such party and shall be effective to bind such party to this Indenture. The parties agree that any electronically signed document (including this Indenture) shall be deemed (i) to be “written” or “in writing”; (ii) to have been signed; and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

(B) For purposes hereof, (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; (ii) “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature; (iii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a pdf or other replicating image attached to an e-mail message; and (iv) “pdf” means portable document format.

Section 14.15. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 14.16. Patriot Act. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. Furthermore, if required by the Patriot Act, the Trustee may request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

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

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Indenture of Trust to be executed in their respective corporate names by their duly authorized officers, all as of the date and year first written above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the Trustee to the Indenture of Trust dated as of the date and year first written above.

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

By _____
Its Vice President

EXHIBIT A

FORM OF SERIES 2025A BOND

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF CROW WING
CITY OF BRAINERD

No. R-_____ \$ _____

SENIOR HOUSING AND HEALTHCARE REVENUE BOND
(PINECREST OF COUNTRY MANOR PROJECT)
SERIES 2025A

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
_____%	May 1, 20____	April __, 2025	

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS

The City of Brainerd, Minnesota (the “Issuer”), for value received, hereby promises to pay to the Registered Owner named above, or registered assigns, upon surrender hereof at the principal corporate trust office of the Trustee named below, solely from the source and in the manner hereinafter provided, on the Maturity Date specified above, the principal amount specified above and to pay interest thereon from the Date of Original Issue specified above, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on May 1 and November 1, commencing November 1, 2025, from the source and in the manner hereinafter provided, until such principal amount is paid or duly provided for at the rate per annum specified above, and at the same rate (to the extent that the payment of such interest shall be legally enforceable) on any Defaulted Interest, all except as the provisions below with respect to redemption of this Bond may become applicable hereto. Payment of the principal of, premium, if any, and interest on this Bond shall be made in coin or currency of the United States of America which at the time of payment is legal tender for payment of public and private debts. Interest so payable, and punctually paid or duly provided for, on any Interest Payment Date, will be paid by check or draft to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall be paid by check or draft to the person in whose name this Bond is registered at the close of business on a special record date fixed by the Trustee pursuant to the Indenture hereafter referred to.

This Bond is one of a duly authorized issue of obligations of the Issuer designated as the “Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A” (the “Series 2025A Bonds”), issued in the original aggregate principal amount of \$[Par A], all secured equally and ratably with the Issuer’s Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the “Series 2025A-T Bonds”), issued in the original aggregate

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principal amount of \$[Par A-T], by an Indenture of Trust, dated as of April 1, 2025 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”), to which Indenture and all indentures supplemental thereto, copies of which are on file with the Trustee, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Holders of the Series 2025A Bonds, the Trustee and the Issuer and the terms upon which the Series 2025A Bonds are issued and are to be authenticated and delivered. As provided in the Indenture, the Series 2025A Bonds are issuable in series which may vary as in the Indenture provided or permitted.

Capitalized terms used herein but otherwise not defined shall have the meaning given to them in the Indenture.

The Series 2025A Bonds are issued by the Issuer in the original aggregate principal amount of \$[Par A], pursuant to the Indenture, Minnesota Statutes, Chapter 462C, as amended, and Sections 469.152 through 469.1655, as amended, and a resolution adopted by the City Council of the Issuer on March 17, 2025, for the purpose of making a loan (the “Loan”) under a Loan Agreement, dated as of April 1, 2025 (the “Loan Agreement”), between the Issuer and Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The proceeds of the Series 2025A Bonds, along with proceeds of the Series 2025A-T Bonds, the Subordinate Bonds, and funds of the Borrower, will be used by the Borrower to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a child care center to be located on the Property (the “Child Care Center Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; (iv) fund required reserves; (v) finance capitalized interest; (v) fund working capital and tax and insurance escrows; and (v) pay costs of issuance of the Series 2025A Bonds and Series 2025A-T Bonds. Pursuant to the Loan Agreement, the Borrower has agreed to repay the Loan, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Series 2025A Bonds and Series 2025A-T Bonds as the same shall become due and payable. Pursuant to the Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the “Mortgage”), by the Borrower in favor of the Trustee, the Borrower has granted to the Trustee for the equal and ratable benefit of the Holders of the Series 2025A Bonds and Series 2025A-T Bonds a mortgage lien on and security interest in substantially all of the real and personal property comprising the Project (the “Mortgaged Property”). Reference is hereby made to the Loan Agreement and the Mortgage, copies of which are on file with the Trustee, for a description of the agreements and covenants contained therein and a description of the Mortgaged Property. By the Indenture, the Issuer has pledged and granted to the Trustee a security interest in the Issuer’s interest in the Loan Agreement (except for the Issuer’s Unassigned Rights).

The Series 2025A Bonds are special, limited obligations of the Issuer. The Series 2025A Bonds and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, due hereunder are payable by the Issuer solely from the revenues and proceeds derived from the Loan Agreement, do not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation, are not payable from or a charge upon any funds of the Issuer other than the revenues and proceeds pledged by the Issuer to the payment hereof, and do not give rise to a pecuniary liability of the Issuer nor of any of its officers, agents, or employees, and no holder of this Bond shall ever have the

right to compel any exercise of the taxing power of the Issuer or the state or any of its political subdivisions to pay this Bond or the interest hereon or any penalty, charge, or premium or any amounts payable hereunder, however designated, due hereunder, or to enforce payment thereof against any property of the Issuer, and the Series 2025A Bonds and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer and the agreement of the Issuer to perform or cause the performance of the covenants and other provisions herein referred to shall be subject at all times to the availability of revenues or other funds or property furnished for such purpose in accordance with the Loan Agreement, sufficient to pay all costs of such performance or the enforcement thereof. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds. The provisions of this paragraph shall, for purposes of this Bond, be controlling and shall be given full force and effect, anything else to the contrary in this Bond notwithstanding.

The Series 2025A Bonds shall be subject to redemption prior to maturity only as follows:

(A) Optional Redemption. The Series 2025A Bonds maturing on and after May 1, 20__ are subject to redemption at the option of the Borrower, evidenced by Borrower Request, on May 1, 20__, and on any date thereafter, in whole or in part and in compliance with Article XII of the Indenture, and if in part from Stated Maturities specified in such Borrower Request, and as to Series 2025A Bonds of the same Stated Maturity by random selection or in such manner as deemed fair by the Trustee, at a redemption price equal to their principal amount and accrued interest, plus a premium (expressed as a percentage of the principal amount of the Series 2025A Bonds so redeemed) set forth below:

<u>Redemption Date</u>	<u>Redemption Premium</u>
May 1, 20__ through April 30, 20__	%
May 1, 20__ through April 30, 20__	
May 1, 20__ and thereafter	

(B) Extraordinary Redemption. The Series 2025A Bonds are subject to extraordinary redemption on any Business Day in whole, or in part, at a redemption price equal to par, plus accrued interest to the redemption date, if certain events of damage to or destruction or condemnation of any of the Project occur.

(C) Mandatory and Scheduled Sinking Fund Redemption. The Series 2025A Bonds are subject to mandatory sinking fund redemption as provided in the Indenture. The Series 2025A Bonds shall be redeemed without further direction from the Borrower on May 1 of the years indicated in the Indenture in the principal amounts at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

(D) Redemption upon a Determination of Taxability. The Series 2025A Bonds are also subject to mandatory redemption upon the occurrence of a Determination of Taxability with respect to the Series 2025A Bonds. In such event, each of the Outstanding Series 2025A Bonds shall be subject to

mandatory redemption and shall be redeemed on the first Business Day for which notice can be duly given under the Indenture after the Borrower receives notice that a Determination of Taxability has occurred, and the Borrower shall cause notice thereof to be given to the Holders of the Series 2025A Bonds, as more fully provided in the Loan Agreement, at a redemption price equal to par, plus accrued interest.

For all other redemptions, notice of redemption shall be published, if required by applicable law, and mailed by first-class mail not more than sixty (60) nor less than thirty (30) days before the redemption date to each Holder of Series 2025A Bonds to be redeemed, but no defect in or failure to give such notice of redemption shall affect the validity of proceedings for redemption of any Series 2025A Bond not affected thereby. All Series 2025A Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption have been duly deposited, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed Outstanding under the provisions of the Indenture; provided however, that so long as the Series 2025A Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the Issuer and DTC.

In addition, at the request of the Authorized Borrower Representative, notice for any redemption not occurring as a result of sinking fund redemption or as a mandatory requirement of the terms of the Series 2025A Bonds, shall include a statement that the redemption so noticed is conditioned on sufficient funds being held by the Trustee in the Debt Service Fund or Optional Redemption Fund on or before noon, Minneapolis, Minnesota time, on the applicable redemption date to pay the full redemption price, and if at such time the amount so held is not sufficient to pay all amounts required to effect the noticed redemption in full, the redemption shall be cancelled, with all Series 2025A Bonds tendered for such redemption being returned to the Holders thereof, and no Event of Default or liability on the part of the Borrower shall arise as a result of such cancellation. The Borrower shall pay all extraordinary fees and expenses incurred in connection with a rescinded call. Upon the happening of the above conditions, Series 2025A Bonds thus called shall not bear interest after the call date and, except for the purpose of payment, from the funds so deposited, shall no longer be protected by the Indenture.

If less than all the Series 2025A Bonds of a maturity are called for redemption while the Series 2025A Bonds are registered in the name of Cede & Co., the Issuer or the Trustee will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all of the Series 2025A Bonds of a maturity are called for redemption and the Series 2025A Bonds are not registered in the name of Cede & Co., the Trustee will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed.

It is provided in the Indenture that Series 2025A Bonds of a denomination larger than \$5,000 may be redeemed in part (\$5,000 or an integral multiple thereof) and that upon a partial redemption of any such Series 2025A Bond the same shall be surrendered in exchange for one (1) or more new Series 2025A Bonds in authorized form for the unredeemed portion of principal.

If provision is made for the payment of principal of, premium, if any, and interest on this Bond in accordance with the Indenture, this Bond shall no longer be deemed Outstanding under the Indenture, shall cease to be entitled to the benefits of the Indenture, the Loan Agreement and the Mortgage, and shall thereafter be payable solely from the funds provided for such payment.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all of the Series 2025A Bonds may be declared due and payable in the manner and with the effect provided in the Indenture.

The Holder of this Bond shall have no right to enforce the provisions of the Indenture, the Loan Agreement or the Mortgage, to institute action to enforce the covenants therein, to take any action with respect to a default under the Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, this Bond is transferable on the Bond Register upon surrender of this Bond for transfer to the Trustee duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one (1) or more new Series 2025A Bonds of the same series, of authorized denominations, for the same aggregate principal amount and of the same Stated Maturity and interest rate will be issued to the designated transferee or transferees.

The Series 2025A Bonds are issuable only in registered form without coupons in the denomination of \$5,000 or any integral multiple thereof.

No service charge shall be made for any transfer or exchange hereinbefore referred to, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Issuer, the Trustee and any agent of the Issuer may treat the person in whose name this Bond is registered as the absolute owner hereof for all purposes whether or not this Bond is overdue, and neither the Issuer, the Trustee nor any such agent shall be affected by notice to the contrary.

It is hereby certified and recited that all conditions, acts and things required to exist, happen and be performed precedent to or in the issuance of this Bond and the issue of which it is a part, do exist, have happened and have been performed in regular and due form as required by law.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature, this Bond shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signatures of its duly authorized officers, all as of the Date of Original Issue specified above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

CERTIFICATE OF AUTHENTICATION

This is one of the Series 2025A Bonds described in the within mentioned Indenture.

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

By _____
Authorized Signature

Date: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____
_____ the
within Bond and does hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the within Bond on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF
ASSIGNEE _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever. Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Trustee, which requirements include membership or participation in STAMP or such other “signature guaranty program” as may be determined by the Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT B

FORM OF SERIES 2018A-T-T BOND

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF CROW WING
CITY OF BRAINERD

No. R-_____ \$ _____

TAXABLE SENIOR HOUSING AND HEALTHCARE REVENUE BOND
(PINECREST OF COUNTRY MANOR PROJECT)
SERIES 2025A-T

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
_____%	May 1, 20__	April __, 2025	

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS

The City of Brainerd, Minnesota (the “Issuer”), for value received, hereby promises to pay to the Registered Owner named above, or registered assigns, upon surrender hereof at the principal corporate trust office of the Trustee named below, solely from the source and in the manner hereinafter provided, on the Maturity Date specified above, the principal amount specified above and to pay interest thereon from the Date of Original Issue specified above, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on May 1 and November 1, commencing November 1, 2025, from the source and in the manner hereinafter provided, until such principal amount is paid or duly provided for at the rate per annum specified above, and at the same rate (to the extent that the payment of such interest shall be legally enforceable) on any Defaulted Interest, all except as the provisions below with respect to redemption of this Bond may become applicable hereto. Payment of the principal of, premium, if any, and interest on this Bond shall be made in coin or currency of the United States of America which at the time of payment is legal tender for payment of public and private debts. Interest so payable, and punctually paid or duly provided for, on any Interest Payment Date, will be paid by check or draft to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall be paid by check or draft to the person in whose name this Bond is registered at the close of business on a special record date fixed by the Trustee pursuant to the Indenture hereafter referred to.

This Bond is one of a duly authorized issue of obligations of the Issuer designated as the “Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T” (the “Series 2025A-T Bonds”), issued in the original aggregate principal amount of \$[Par A-T], all secured equally and ratably with the Issuer’s Senior Housing and Healthcare Revenue

Bonds (Pinecrest of Country Manor Project), Series 2025A (the “Series 2025A-T Bonds”), issued in the original aggregate principal amount of \$[Par A], by an Indenture of Trust, dated as of April 1, 2025 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”), to which Indenture and all indentures supplemental thereto, copies of which are on file with the Trustee, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Holders of the Series 2025A-T Bonds, the Trustee and the Issuer and the terms upon which the Series 2025A-T Bonds are issued and are to be authenticated and delivered. As provided in the Indenture, the Series 2025A-T Bonds are issuable in series which may vary as in the Indenture provided or permitted.

Capitalized terms used herein but otherwise not defined shall have the meaning given to them in the Indenture.

The Series 2025A-T Bonds are issued by the Issuer in the original aggregate principal amount of \$[Par A-T], pursuant to the Indenture, Minnesota Statutes, Chapter 462C, as amended, and Sections 469.152 through 469.1655, as amended, and a resolution adopted by the City Council of the Issuer on March 17, 2025, for the purpose of making a loan (the “Loan”) under a Loan Agreement, dated as of April 1, 2025 (the “Loan Agreement”), between the Issuer and Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The proceeds of the Series 2025A-T Bonds, along with proceeds of the Series 2025A Bonds and funds of the Borrower, will be used by the Borrower to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a child care center to be located on the Property (the “Child Care Center Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; (iv) fund required reserves; (v) finance capitalized interest; and (iv) pay costs of issuance of the Series 2025A Bonds and Series 2025A-T Bonds. Pursuant to the Loan Agreement, the Borrower has agreed to repay the Loan, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Series 2025A Bonds and Series 2025A-T Bonds as the same shall become due and payable. Pursuant to the Combination Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the “Mortgage”), by the Borrower in favor of the Trustee, the Borrower has granted to the Trustee for the equal and ratable benefit of the Holders of the Series 2025A and Series 2025A-T Bonds a mortgage lien on and security interest in substantially all of the real and personal property comprising the Project (the “Mortgaged Property”). Reference is hereby made to the Loan Agreement and the Mortgage, copies of which are on file with the Trustee, for a description of the agreements and covenants contained therein and a description of the Mortgaged Property. By the Indenture, the Issuer has pledged and granted to the Trustee a security interest in the Issuer’s interest in the Loan Agreement (except for the Issuer’s Unassigned Rights).

The Series 2025A-T Bonds are special, limited obligations of the Issuer. The Series 2025A-T Bonds and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, due hereunder are payable by the Issuer solely from the revenues and proceeds derived from the Loan Agreement, do not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation, are not payable from or a charge upon any funds of the Issuer other than the revenues and proceeds pledged by the Issuer to the payment hereof, and do not give rise to a pecuniary liability of the Issuer nor of any of its officers, agents, or employees, and no holder of this Bond

shall ever have the right to compel any exercise of the taxing power of the Issuer or the state or any of its political subdivisions to pay this Bond or the interest hereon or any penalty, charge, or premium or any amounts payable hereunder, however designated, due hereunder, or to enforce payment thereof against any property of the Issuer, and the Series 2025A-T Bonds and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Issuer and the agreement of the Issuer to perform or cause the performance of the covenants and other provisions herein referred to shall be subject at all times to the availability of revenues or other funds or property furnished for such purpose in accordance with the Loan Agreement, sufficient to pay all costs of such performance or the enforcement thereof. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds. The provisions of this paragraph shall, for purposes of this Bond, be controlling and shall be given full force and effect, anything else to the contrary in this Bond notwithstanding.

The Series 2025A-T Bonds shall be subject to redemption prior to maturity only as follows:

(A) Optional Redemption. The Series 2025A-T Bonds are not subject to optional redemption prior to Maturity.

(B) Extraordinary Redemption. The Series 2025A-T Bonds are subject to extraordinary redemption on any Business Day in whole, or in part, at a redemption price equal to par, plus accrued interest to the redemption date, if certain events of damage to or destruction or condemnation of any of the Project occur.

(C) Mandatory and Scheduled Sinking Fund Redemption. The Series 2025A-T Bonds are subject to mandatory sinking fund redemption as provided in the Indenture. The Series 2025A-T Bonds shall be redeemed without further direction from the Borrower on May 1 of the years indicated in the Indenture in the principal amounts at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

(D) Redemption upon a Determination of Taxability of Series 2025A-T Bonds. The Series 2025A-T Bonds are also subject to mandatory redemption upon the occurrence of a Determination of Taxability with respect to the Series 2025A Bonds. In such event, each of the Outstanding Series 2025A-T Bonds shall be subject to mandatory redemption and shall be redeemed on the first Business Day for which notice can be duly given under the Indenture after the Borrower receives notice that a Determination of Taxability has occurred, and the Borrower shall cause notice thereof to be given to the Holders of the Series 2025A-T Bonds, as more fully provided in the Loan Agreement, at a redemption price equal to par, plus accrued interest.

For all other redemptions, notice of redemption shall be published, if required by applicable law, and mailed by first-class mail not more than sixty (60) nor less than thirty (30) days before the redemption date to each Holder of Series 2025A-T Bonds to be redeemed, but no defect in or failure to give such notice of redemption shall affect the validity of proceedings for redemption of any Series 2025A-T Bond not affected thereby. All Series 2025A-T Bonds so called for redemption will

cease to bear interest on the specified redemption date, provided funds for their redemption have been duly deposited, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed Outstanding under the provisions of the Indenture; provided however, that so long as the Series 2025A-T Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the Issuer and DTC.

In addition, at the request of the Authorized Borrower Representative, notice for any redemption not occurring as a result of sinking fund redemption or as a mandatory requirement of the terms of the Series 2025A-T Bonds, shall include a statement that the redemption so noticed is conditioned on sufficient funds being held by the Trustee in the Debt Service Fund or Optional Redemption Fund on or before noon, Minneapolis, Minnesota time, on the applicable redemption date to pay the full redemption price, and if at such time the amount so held is not sufficient to pay all amounts required to effect the noticed redemption in full, the redemption shall be cancelled, with all Series 2025A-T Bonds tendered for such redemption being returned to the Holders thereof, and no Event of Default or liability on the part of the Borrower shall arise as a result of such cancellation. The Borrower shall pay all extraordinary fees and expenses incurred in connection with a rescinded call. Upon the happening of the above conditions, Series 2025A-T Bonds thus called shall not bear interest after the call date and, except for the purpose of payment, from the funds so deposited, shall no longer be protected by the Indenture.

If less than all the Series 2025A-T Bonds of a maturity are called for redemption while the Series 2025A-T Bonds are registered in the name of Cede & Co., the Issuer or the Trustee will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all of the Series 2025A-T Bonds of a maturity are called for redemption and the Series 2025A-T Bonds are not registered in the name of Cede & Co., the Trustee will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed.

It is provided in the Indenture that Series 2025A-T Bonds of a denomination larger than \$5,000 may be redeemed in part (\$5,000 or an integral multiple thereof) and that upon a partial redemption of any such Series 2025A-T Bond the same shall be surrendered in exchange for one (1) or more new Series 2025A-T Bonds in authorized form for the unredeemed portion of principal.

If provision is made for the payment of principal of, premium, if any, and interest on this Bond in accordance with the Indenture, this Bond shall no longer be deemed Outstanding under the Indenture, shall cease to be entitled to the benefits of the Indenture, the Loan Agreement and the Mortgage, and shall thereafter be payable solely from the funds provided for such payment.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all of the Series 2025A-T Bonds may be declared due and payable in the manner and with the effect provided in the Indenture.

The Holder of this Bond shall have no right to enforce the provisions of the Indenture, the Loan Agreement or the Mortgage, to institute action to enforce the covenants therein, to take any action with respect to a default under the Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, this Bond is transferable on the Bond Register upon surrender of this Bond for transfer to the Trustee duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee duly executed

by, the Holder hereof or his attorney duly authorized in writing, and thereupon one (1) or more new Series 2025A-T Bonds of the same series, of authorized denominations, for the same aggregate principal amount and of the same Stated Maturity and interest rate will be issued to the designated transferee or transferees.

The Series 2025A-T Bonds are issuable only in registered form without coupons in the denomination of \$5,000 or any integral multiple thereof.

No service charge shall be made for any transfer or exchange hereinbefore referred to, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Issuer, the Trustee and any agent of the Issuer may treat the person in whose name this Bond is registered as the absolute owner hereof for all purposes whether or not this Bond is overdue, and neither the Issuer, the Trustee nor any such agent shall be affected by notice to the contrary.

It is hereby certified and recited that all conditions, acts and things required to exist, happen and be performed precedent to or in the issuance of this Bond and the issue of which it is a part, do exist, have happened and have been performed in regular and due form as required by law.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature, this Bond shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signatures of its duly authorized officers, all as of the Date of Original Issue specified above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

CERTIFICATE OF AUTHENTICATION

This is one of the Series 2025A-T Bonds described in the within mentioned Indenture.

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

By _____
Authorized Signature

Date: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the
within Bond and does hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the within Bond on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF
ASSIGNEE _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever. Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT C

**FORM OF REPAIR AND REPLACEMENT RESERVE FUND
DRAW REQUEST**

Requisition No. _____

Date: _____

To: U.S. Bank Trust Company, National Association (the "Trustee")

Re: Draw from Repair and Replacement Reserve Fund in accordance with the Indenture of Trust, dated as of April 1, 2025 (the "Indenture"), between the City of Brainerd, Minnesota (the "Issuer") and the Trustee, and the Loan Agreement, dated as of April 1, 2025 (the "Loan Agreement"), between the Issuer and Country Manor Campus Brainerd LLC (the "Borrower")

The undersigned Borrower representative designated pursuant to the terms of the Indenture and Loan Agreement, requests that there be paid from the Repair and Replacement Reserve Fund the sum set forth below, and in that connection with respect to the use of the monies thereunder, I CERTIFY, as follows:

1. An obligation in each of the amounts set forth below has been incurred in connection with the improvement or equipping of the Project, and such obligation or amount represents a depreciable cost of the Project.

2. Each requested payment is (a) a proper charge against the Repair and Replacement Reserve Fund, pursuant to the Indenture and the Loan Agreement, (b) is not duplicative of any previous withdrawal from such Fund, (c) is fair and reasonable and (d) the payee, purpose and amount of such obligation are described below:

Payee

Name and Address

Purpose

Amount

3. The undersigned has no notice of any vendors', materialmen's, mechanics', suppliers' or other similar liens or rights to liens, chattel mortgages or conditional sales contracts, or other contracts or obligations which should be satisfied or discharged before payment of the above-described obligations is made.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____
Name: _____
Title: _____

EXHIBIT D

**FORM OF WORKING CAPITAL FUND
DRAW REQUEST**

Requisition No. _____

Date: _____

To: U.S. Bank Trust Company, National Association (the "Trustee")

Re: Draw from Working Capital Fund in accordance with the Indenture of Trust, dated as of April 1, 2025 (the "Indenture"), between the City of Brainerd, Minnesota (the "Issuer") and the Trustee, and the Loan Agreement, dated as of April 1, 2025 (the "Loan Agreement"), between the Issuer and Country Manor Campus Brainerd LLC (the "Borrower")

The undersigned Borrower representative designated pursuant to the terms of the Indenture and Loan Agreement, requests that there be paid from the Working Capital Fund the sum set forth below, and in that connection with respect to the use of the monies thereunder, I CERTIFY, as follows:

1. An obligation in each of the amounts set forth below has been incurred in connection with the Project, and such obligation or amount represents a working capital cost of the Project.

2. Each requested payment is (a) a proper charge against the Working Capital Fund, pursuant to the Indenture and the Loan Agreement, (b) is not duplicative of any previous withdrawal from such Fund, (c) is fair and reasonable and (d) the payee, purpose and amount of such obligation are described below:

Payee

Name and Address

Purpose

Amount

3. The undersigned has no notice of any vendors', materialmen's, mechanics', suppliers' or other similar liens or rights to liens, chattel mortgages or conditional sales contracts, or other contracts or obligations which should be satisfied or discharged before payment of the above-described obligations is made.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____

Name: _____

Title: _____

March 12, 2025

LOAN AGREEMENT

between

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

and

**COUNTRY MANOR CAMPUS BRAINERD LLC,
as Borrower**

Dated as of April 1, 2025

Relating to:

**§[Par A]
City of Brainerd, Minnesota
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A**

**§[Par A-T]
City of Brainerd, Minnesota
Taxable Senior Housing and Healthcare
Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A-T**

The City of Brainerd, Minnesota (the “Issuer”) has assigned and granted a security interest in its right, title and interest in this Loan Agreement, dated as of April 1, 2025, between the Issuer and Country Manor Campus Brainerd LLC (except for the Issuer’s Unassigned Rights), to U.S. Bank Trust Company, National Association (the “Trustee”) under an Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee.

This instrument was drafted by:
Kutak Rock LLP (SEL)
60 South Sixth Street, Suite 3400
Minneapolis, MN 55402

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of April 1, 2025 (the “Loan Agreement”), is between the CITY OF BRAINERD, MINNESOTA, a home rule charter city and political subdivision of the State of Minnesota, organized and existing pursuant to its charter and the Constitution and laws of the State of Minnesota (the “Issuer”), and COUNTRY MANOR CAMPUS BRAINERD LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Sole Member”).

RECITALS:

Reference is hereby made to the Indenture of Trust, dated as of April 1, 2025 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”), for the recitals and the definitions of various terms used herein.

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

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1. Definitions. Capitalized terms used but not defined herein and not required to be otherwise capitalized are used with the meanings, if any, ascribed thereto in the Indenture or the Mortgage.

Section 1.2. Construction. For all purposes of this Loan Agreement, except as otherwise expressly provided or unless the context clearly otherwise requires:

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

(b) The words “herein,” “hereof,” and “hereunder,” and other words of similar import, without reference to any particular Article, Section or subdivision, refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP.

(d) All computations herein provided for shall be made in accordance with GAAP.

Section 1.3. Compliance Certificates and Opinions. All certificates delivered under this Loan Agreement or the Indenture shall comply with the provisions of Article XIV of the Indenture.

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

ARTICLE II

REPRESENTATIONS OF THE ISSUER; REPRESENTATIONS, WARRANTIES AND COVENANTS BY THE BORROWER

Section 2.1. Representations by the Issuer. As of the Closing Date of the Series 2025A Bonds and the Series 2025A-T Bonds, the Issuer represents to the Borrower:

(a) The Issuer is a home rule charter city and political subdivision of the State, organized and existing pursuant to its charter and the Constitution and laws of the State.

(b) On March 17, 2025, the City Council of the Issuer held a regularly scheduled meeting of the City Council, duly called and convened, on which date it conducted a public hearing, and gave approval to issuance of the Senior Bonds, and Subordinate Bonds.

(c) To the actual knowledge of the Issuer, there is no litigation pending, or threatened, against the Issuer, questioning the Issuer's execution and delivery of the Senior Bonds, the Indenture, the BQ Fee Agreement, the Bond Purchase Agreement, or this Loan Agreement, or the assignment of certain Issuer's rights under this Loan Agreement to the Trustee (excluding the Issuer's Unassigned Rights), or questioning the powers or authority of the Issuer under the Act, or questioning the corporate existence or boundaries of the Issuer or the title of any of the present officers of the Issuer to their respective offices.

(d) To the actual knowledge of the undersigned officials of the Issuer, the Issuer's execution and delivery of the Series 2025A Bonds, the Series 2025A-T Bonds, the Indenture, the BQ Fee Agreement, the Bond Purchase Agreement, or this Loan Agreement and the assignment to the Trustee of the Issuer's rights under this Loan Agreement (with the exception of the Issuer's Unassigned Rights) does not materially violate any agreement or any court order or judgment in any litigation to which the Issuer is a party or by which it is bound.

Section 2.2. Representations, Warranties and Covenants by the Borrower. As of the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, the Borrower represents, warrants and covenants with the Issuer as follows:

(a) The Borrower is a nonprofit limited liability company duly incorporated under the laws of the State, is in good standing and duly authorized to conduct its business in the State, and is duly authorized and has full power under the laws of the State and all other applicable provisions of law and its articles of organization and operating agreement to create, issue, enter into, execute and deliver the Borrower Documents. The Borrower has full power and authority to undertake its actions and responsibilities as contemplated by this Loan Agreement.

(b) The Sole Member is a Tax-Exempt Organization, and the trade or business to be carried on by the Borrower or the Sole Member in or with respect to the Project is not an unrelated trade or business, determined by applying Section 513(a) of the Code, to any extent which will adversely affect the tax-exempt status of the interest to be paid on any Tax-Exempt Bonds. The Sole Member has not declared and has not been determined to have an amount of "unrelated business taxable income" as defined in Section 512 of the Code which could have a material adverse effect on the Sole Member's status as a Tax-Exempt Organization or which, if such income were subject to federal income taxation, would have a material adverse effect on the condition, financial or otherwise, of the Sole Member.

(c) The execution and delivery of the Bond Purchase Agreement relating to the Series 2025A Bonds and Series 2025A-T Bonds and the other Borrower Documents, the consummation of the transactions contemplated hereby and thereby, and the fulfillment of the terms and conditions hereof and thereof do not conflict with or result in a breach of any of the terms or conditions of the articles of organization or operating agreement of the Borrower or of any corporate restriction or of any agreement or instrument to which the Borrower is now a party, and do not constitute a default under any of the foregoing, or result in the creation or imposition of any liens, charges or encumbrances of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement.

(d) The Borrower has obtained or will obtain all requisite approvals of the State and other federal, state, regional and local governmental bodies for the sale and issuance of the Series 2025A Bonds and Series 2025A-T Bonds and application of the proceeds thereof as contemplated by this Loan Agreement and the Indenture, other than Blue Sky Laws, as to which no representation is given; and the Project is in compliance with applicable federal, state and local zoning and subdivision laws, regulations, codes and ordinances applicable as of the date hereof, and, to the Borrower's knowledge, is in compliance with applicable federal, state and local environmental, pollution control and building laws, regulations, codes and ordinances applicable as of the date hereof.

(e) The Borrower does not rely on any warranty of the Issuer, either express or implied, that the Project will be suitable to the needs of the Borrower and recognizes that under the Act the Issuer is not authorized to expend any funds on the Project other than the revenues received by it hereunder or the proceeds of the Bonds or other funds granted to it for the purposes contemplated in the Act.

(f) All proceeds of the Series 2025A Bonds and Series 2025A-T Bonds shall be used to (i) finance costs of the acquisition, construction, and equipping of the Project; (ii) refinance the Prior Taxable Debt; (iii) fund required reserves, working capital and tax and insurance escrows; (iv) finance capitalized interest on the Senior Bonds; and (v) pay Costs of Issuance of the Series 2025A Bonds and Series 2025A-T Bonds. The proceeds of the Series 2025A Bonds and Series 2025A-T Bonds, together with the proceeds of the Series 2025B Bonds and any other funds to be contributed to financing the Project by or on behalf of the Borrower in accordance with this Loan Agreement and the Subordinate Loan Agreement, will be sufficient to pay all the costs of such financing.

(g) Subject only to Section 5.2 hereof, the Borrower intends to own and operate the Project, as provided herein, except to the extent such operation may be interrupted by strikes, riots, acts of nature or public enemy or other circumstances beyond the control of the Borrower.

(h) The Borrower has a fee title interest in the Land. There are no liens or encumbrances on the Project except Permitted Encumbrances.

(i) The Borrower has not received any notice that it is not in compliance with any provisions of Environmental Laws, or with any rules, regulations and administrative orders of any governmental agency, or with any judgments, decrees or orders of any court of competent jurisdiction with respect thereto; and the Borrower has not received any assessment, notice (primary or secondary) of liability or financial responsibility, and no notice of any action, claim or proceeding to determine such liability or responsibility, or the amount thereof, or to impose civil penalties with respect to a site listed on any federal or State listing of sites containing or believed to contain Hazardous Substances, nor has the Borrower received notification that any Hazardous Substances that it has disposed of have been found in any site at which any governmental agency is conducting an investigation or other proceeding under any Environmental Law. The Borrower has or has caused to be obtained all necessary and material approvals and licenses, permits, consents and franchises from federal, State, municipal or other governmental

authorities having jurisdiction over the Project and to enter into, execute and perform its obligations under this Loan Agreement required on the date hereof.

(j) There is not pending any suit, action or proceeding against or affecting the Borrower before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the Borrower, of any of the transactions contemplated hereby or the ability of the Borrower to perform its obligations hereunder or as contemplated hereby.

(k) No member of the City Council or other officer or employee of the Issuer had any direct or indirect interest in this Loan Agreement, the Series 2025A Bonds, the Series 2025A-T Bonds, the Project or any contract, agreement or job hereby contemplated to be entered into or undertaken in connection therewith.

(l) The Borrower has reviewed the Indenture and approves its provisions, consents to its terms and agrees to abide by and perform all specific covenants and obligations contained in the Indenture that are therein (or elsewhere) specifically made, or which may become applicable to the Borrower.

(m) The Borrower covenants that it will comply with all provisions of the Act, including without limitation any notice and filing requirements imposed under the Act.

(n) No default, or occurrence which would become a default with the giving of notice or the passing of time will constitute a default, has occurred and is continuing hereunder or under any agreement.

(o) None of the proceeds of the Series 2025A Bonds and Series 2025A-T Bonds will be used, directly or indirectly, to pay or to reimburse the Borrower for the payment of, or to refund indebtedness the proceeds of which were used to pay for, costs of the acquisition, construction, renovation, remodeling or equipping or any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or other similar persons in the field of religion.

(p) The representations and certifications contained in the Borrower Tax Certificate and the other Borrower Certificates delivered on the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds are true and correct and are incorporated by reference herein.

(q) To the knowledge of the Borrower, the recitals in the Indenture and, by incorporation, this Loan Agreement are true and correct.

(r) Either (i) the Borrower and the Sole Member have elected under Treasury Regulations, Section 301.7701-3(a), to disregard the Borrower as an entity separate from the Sole Member for federal income tax purposes; or (ii) no election has been made under Treasury Regulations, Section 301.7701-3(b)(1)(i) not to disregard the Borrower as an entity separate from Sole Member for federal income tax purposes.

(s) So long as the Bonds are Outstanding, the Borrower shall have only one (1) member, and no person other than the Sole Member shall be such member, except to the extent the Trustee receives an opinion of Bond Counsel to the effect that noncompliance with this paragraph will not cause interest on any Series 2025A Bonds and any other Outstanding Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

(t) The Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower specifically waives such notification to the extent permitted by law and shall receive periodic cash transaction statements from the Trustee that will detail all investment transactions.

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ARTICLE III

CONSTRUCTION OF THE PROJECT; ISSUANCE OF THE SERIES 2025A BONDS AND SERIES 2025A-T BONDS

Section 3.1. Agreement to Construct the Project. The Borrower shall proceed with due diligence to construct and equip the Project. The Borrower agrees to make its best efforts to complete the Project on or before the Completion Date, or such later date resulting from unavoidable delay as may be designated in a Borrower Certificate delivered to the Trustee (which certificate shall describe the unavoidable delay giving rise to the extension). In any case, there shall be no abatement or diminution in the Loan Repayments and Additional Payments required to be made by the Borrower under this Loan Agreement.

Section 3.2. Changes in the Project. The Borrower may make any changes in the Plans and Specifications for the Project or any Construction Contract for the Project, and may make any deletions from or substitutions or additions to the Project, without the prior consent of the Issuer or the Trustee, so long as such changes in the Plans and Specifications or a Construction Contract, or deletions from or substitutions or additions to the Project, do not (a) materially impair the operating efficiency of the Project; (b) increase the cost of the Project by more than \$500,000, unless a Borrower Certificate is delivered to the Trustee stating that the Borrower has funds available to cover such increased costs and will deposit such funds in the Construction Fund prior to incurring the increased costs; or (C) violate any license, permit or approval given by the State, the Issuer, or any other governmental unit with respect to the Project.

Section 3.3. Withdrawal from the Construction Fund. Withdrawal from the Construction Fund. An initial deposit of funds shall be made to the Construction Fund in accordance with Sections 5.02 and 5.03 of the Indenture. Money in the Construction Fund shall be disbursed by the Trustee to pay for, or reimburse the Borrower for its payment of, Qualified Project Costs in accordance with the terms and conditions of the Indenture and the Disbursing Agreement. Upon the completion of the Project, which shall be the earlier of the date that is three (3) years from the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds or the date that the Trustee receives a Borrower Certificate indicating that the Project is complete (the "Completion Date"), any balance then remaining in the Construction Fund shall be applied in accordance with Section 5.03 of the Indenture.

Section 3.4. Sums for Completion. Sums for Completion. The Borrower represents that in good faith and after diligent inquiry it has determined that the Project can be completed at a price within the amount of funds available from the Series 2025A Bonds and Series 2025A-T Bonds and the amounts to be deposited in the Construction Fund at closing from other sources. The Issuer and the Trustee make no representation or warranty, express or implied, that the money on hand in the Construction Fund will be sufficient to pay all Qualified Project Costs. If the Construction Fund is not sufficient to pay all Qualified Project Costs, after transferring funds from [a draw under the Letter of Credit] and a draw under the Senior Limited Guaranty, the Borrower shall nonetheless complete the Project and pay all costs incurred therefor from its own funds as provided in the Disbursing Agreement. No payments by the Borrower under this Section 3.4 shall reduce the obligations of the Borrower or offset any other payment required to be made by the Borrower hereunder or reduce the amount available to the Borrower from the Construction Fund.

Section 3.5. Agreement to Issue Series 2025A Bonds and Series 2025A-T Bonds; Application of Proceeds Thereof. In order to provide funds to loan to the Borrower to finance the Project, the Issuer has, or will have, upon or promptly after the execution of this Loan Agreement, issued and authorized

delivery of the Series 2025A Bonds and Series 2025A-T Bonds to or at the direction of the Original Purchaser thereof, and the Issuer has or will have deposited or authorized the deposit of the net proceeds of the Series 2025A Bonds and Series 2025A-T Bonds in accordance with the Indenture.

Section 3.6. Disbursements from Costs of Issuance Fund. The Issuer has, in the Indenture and in an Issuer Request delivered to the Trustee on the Closing Date of the Series 2025A Bonds and Series 2025A-T Bonds, authorized and directed the Trustee to use the money in the Costs of Issuance Fund for payment of the Costs of Issuance for the Series 2025A Bonds and Series 2025A-T Bonds. Notwithstanding any other provision hereof, the Borrower covenants that the Costs of Issuance financed by the Series 2025A Bonds (including underwriter's discount) shall not exceed two percent (2%) of the proceeds of the Series 2025A Bonds.

Section 3.7. Obligation of Borrower to Cooperate in Furnishing Documents to Trustee. The Borrower agrees to cooperate in furnishing to the Trustee the documents and directions required to effect payments from the funds and accounts established under the Indenture and the documents referred to in the Indenture required for the authentication and delivery of the Series 2025A Bonds and Series 2025A-T Bonds. Such obligations are subject to any provision of this Loan Agreement or the Indenture requiring additional documentation.

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ARTICLE IV

THE LOAN AND REPAYMENT THEREOF; ADDITIONAL PAYMENTS

Section 4.1. Loan of Bond Proceeds. The Issuer agrees to lend to the Borrower the entire proceeds of all Bonds as received by or on behalf of the Issuer upon the original issuance by the Issuer of such Bonds. For this purpose, the proceeds of Bonds (and therefore the Loan) shall be deemed to include the underwriting discount, if any, or other amount by which the amount received by or on behalf of the Issuer on the original sale of any Bonds to the Original Purchaser of such series of Bonds is less than the principal amount of such Bonds. The obligation of the Issuer to lend such proceeds shall be discharged, and the obligation of the Borrower to repay the Loan shall become effective, when such proceeds are received by the Trustee from the Issuer or the Original Purchaser. The Borrower accepts the Loan from the Issuer, on the terms and conditions herein and in the Indenture specified, by having the proceeds of the Loan applied and disbursed in accordance with the provisions of the Indenture and the Disbursing Agreement. The Borrower also, until the proceeds of the Bonds are expended as provided in the Indenture, grants the Trustee a security interest in such proceeds as additional security for the payment of the Bonds, excluding funds or Qualified Investments on deposit in the Rebate Fund.

Section 4.2. Loan Repayments.

(a) The Borrower agrees to repay the Loan in installments (the “Loan Repayments”), which in the aggregate (payable as provided below), shall be sufficient to pay in full and when due all the Bonds from time to time Outstanding, including (i) the total interest becoming due and payable on the Bonds to the respective dates of payment thereof whether at, before or after their Stated Maturity; (ii) the total principal amount of the Bonds; and (iii) the premium, if any, that shall be payable on the redemption of any Bonds.

(b) In addition, the Borrower agrees to pay interest on overdue installments of principal, premium, if any, and (to the extent lawful) interest on the Loan at the rate or rates borne by the Bond or Bonds as to which such installments are overdue.

(c) Without limiting the foregoing provisions of this Section 4.2, the Borrower agrees to make Loan Repayments with respect to the Series 2025A Bonds and Series 2025A-T Bonds as follows:

(i) with respect to the payment of interest on the Series 2025A Bonds and Series 2025A-T Bonds, (1) on or before _____ 25, 2025 and continuing on or before the twenty-fifth day of each month thereafter to and including October 25, 2025, an amount not less than one-_____ of the total amount of interest payable on the first Interest Payment Date; and (2) on or before November 25, 2025 and continuing on or before the twenty-fifth day of each month thereafter, an amount not less than one-sixth of the total amount of interest payable on the Series 2025A and Series 2025A-T Bonds on the next succeeding Interest Payment Date;

(ii) with respect to the payment of principal of the Series 2025A Bonds, on or before _____ 25, 20____ and on or before the twenty-fifth day of each month thereafter, an amount not less than one-twelfth of the total amount of principal payable on the Series 2025A Bonds on the next succeeding Principal Payment Date;

(iii) with respect to the payment of principal of the Series 2025A-T Bonds, on or before _____ 25, 20____ and on or before the twenty-fifth day of each month thereafter, an

amount not less than one-twelfth of the total amount of principal payable on the Series 2025A-T Bonds on the next succeeding Principal Payment Date;

(iv) notwithstanding the foregoing, any amount on deposit in **[the accounts of]** the Debt Service Fund as of any Loan Repayment Date shall be credited against the amount otherwise due on said Loan Repayment Date;

(v) on any date (other than a Sinking Fund Payment Date) on which Series 2025A Bonds and Series 2025A-T Bonds are to be redeemed from amounts in **[the accounts of]** the Debt Service Fund (or such later date as may be acceptable to the Trustee), an amount equal to the full amount required to pay the Redemption Price of the Series 2025A Bonds and Series 2025A-T Bonds to be so redeemed, less the amount, if any, then on hand in **[the accounts of]** the Debt Service Fund and available for the payment of such Redemption Price;

(vi) the Borrower shall be entitled to a credit against the initial payments due under clauses (i), (ii), and (iii) above in an amount equal to the capitalized interest with respect to the Series 2025A Bonds and Series 2025A-T Bonds deposited into the Capitalized Interest Fund;

(vii) in addition, if any of the payments required under this subsection (c) are not made by the Borrower, then the Borrower shall notify the Trustee that such amounts will be paid by the Sole Member to make such payments under the terms of the Senior Limited Guaranty, subject to the limitations and notice requirements therein; and

(viii) notwithstanding the foregoing, if, on or after the last Loan Repayment Date preceding any Payment Date, the balance then on hand in **[the accounts of]** the Debt Service Fund (after the Trustee having drawn on the Optional Redemption Fund, the Working Capital Fund, the Senior Limited Guaranty, and the Debt Service Reserve Fund) is not sufficient to pay all principal, redemption premium, if any, and interest due on the Series 2025A Bonds and Series 2025A-T Bonds on the applicable Payment Date, the Borrower will forthwith pay to the Trustee on demand an amount equal to such deficiency, for credit to **[the accounts of]** the Debt Service Fund.

(d) Reference is hereby made to Section 4.01 of the Indenture, which states that prior to the issuance of any series of Additional Bonds there shall be delivered to the Trustee, among other things, an executed counterpart of an amendment to this Loan Agreement providing for additional Loan Repayments sufficient to provide for the payment of the principal of, premium, if any, and interest on all Bonds Outstanding after the issuance of such series of Additional Bonds. Any such amendment may provide for the same or for different Loan Repayment Dates with respect to such series of Additional Bonds, but no amendment shall reduce or authorize any later payments of the Loan Repayments or postpone the dates thereof required to be made in respect of the Series 2025A Bonds and Series 2025A-T Bonds pursuant to this Section 4.2.

(e) By the Indenture the Issuer will assign to the Trustee, and grant to the Trustee a security interest in and a lien on, all right, title and interest of the Issuer in and to this Loan Agreement and to all payments hereunder (excepting the Issuer's Unassigned Rights). All Loan Repayments shall be made directly to the Trustee at its principal corporate trust office and applied in the manner provided in the Indenture.

(f) The Loan Repayments herein provided for are subject to prepayment and to certain credits, as provided above and in Section 8.1 hereof.

Section 4.3. Additional Payments. In addition to the Loan Repayments, the Borrower agrees to pay to the Issuer and to pay or deposit with the Trustee when due, as Additional Payments, the following:

(a) The Borrower shall reimburse the Issuer, upon demand, for all costs and expenses, including without limitation, attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of the Bonds, the Indenture, the Borrower Documents, and the documents and instruments related thereto; (ii) any amendments or modifications to any of the foregoing documents, instruments or agreements and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; (iii) servicing and administering the Loan during the term hereof or thereafter; and (iv) enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or under the foregoing documents, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto. The Borrower shall also pay the reasonable fees of the Trustee and all other costs and expenses of paying the Bonds and making, administering and collecting the Loan, including but not limited to (1) the fees and other costs incurred by the Issuer or the Trustee under the Indenture for services of paying agents; (2) all costs incurred in connection with the transfer, registration, exchange or redemption of the Bonds; (3) all fees and other costs incurred for services of such engineers, architects, attorneys, management consultants, accountants and other consultants as are employed by the Issuer or the Trustee to make examinations and reports, provide services and render opinions required under the Borrower Documents or the Indenture; and (4) amounts advanced by the Issuer or the Trustee under the Borrower Documents or the Indenture and which the Borrower is obligated to repay.

(b) If there are funds or Qualified Investments on deposit in **[the accounts of]** the Debt Service Reserve Fund and the Trustee transfers money from **[the accounts of]** the Debt Service Reserve Fund to **[the accounts of]** the Debt Service Fund pursuant to Section 5.06 of the Indenture, on the twenty-fifth day of each month thereafter, the Borrower shall pay to the Trustee for credit to **[the accounts of]** the Debt Service Reserve Fund an amount equal to at least one-sixth of the amount so transferred (until the balance in the Debt Service Reserve Fund is equal to the Reserve Requirement).

(c) In addition, if any of the payments required under this Section 4.3 are not made by the Borrower, then the Trustee shall require the Sole Member to make such payments under the terms of the Limited Guaranty, subject to the limitations therein

(d) On or before [August 25, 2026], and continuing on or before the twenty-fifth day thereafter, the Borrower shall pay to the Trustee for deposit into the Repair and Replacement Reserve Fund an amount equal to the greater of (i) one-twelfth of \$300 per unit per year, based on the actual number of units in the Project at the commencement of each Fiscal Year; or (ii) one-twelfth of the amount outlined in the most recent capital budget subject to a maximum fund balance of \$1,000 per unit per year based upon the actual number of units in the Project at the end of each Fiscal Year.

(e) On or before _____ 25, 20____, and continuing on or before the twenty-fifth day thereafter, the Borrower will make deposits in an amount equal to one-twelfth of one hundred percent (100%) of the amount set forth from time to time in the Company's budget for the Fiscal Year for (i) annual premiums on all insurance required to be maintained by Section 5.10 hereof and Section 5.12 of the Indenture and (ii) real estate taxes (or payments in lieu of such taxes), assessments or other charges for governmental services with respect to the Project for the current year (exclusive of utility charges); provided, however, that in making any such payments the Borrower shall be credited for amounts in the

Taxes and Insurance Escrow Fund that are in excess of the aggregate payments required to be made as of any such payment date.

Section 4.4. Issuer's Administrative Fee. The Borrower shall pay in accordance with this Section 4.4 and Section 4.4 of the Subordinate Loan Agreement, the Issuer's fee in the amount equal to 0.25% of the aggregate principal amount of the Senior Bonds and the Subordinate Bonds (collectively, the "Series 2025 Bonds"), not to exceed \$50,000, which shall be payable by the Borrower on the Closing Date of the Series 2025 Bonds, and any fees and expenses of the Issuer in connection with the issuance of the Series 2025 Bonds. The administrative fee is not pledged to the payment of the Series 2025A Bonds or Series 2025A-T Bonds and may be used by the Issuer for any proper purpose. The Borrower understands that an additional administrative fee may be payable in connection with the issuance of Additional Bonds.

Section 4.5. Audit Expenses. The Borrower agrees to pay any reasonable costs incurred by the Issuer as a result of the Issuer's compliance with an audit or any other inquiry, random or otherwise, by the Internal Revenue Service, the Minnesota Department of Revenue, or the Minnesota Office of the State Auditor with respect to the Bonds or the Project.

Section 4.6. Certain of Borrower's Obligations Unconditional. The Borrower shall bear all risk of damage or destruction in whole or in part to the Mortgaged Property or any part thereof, including without limitation any loss, complete or partial, or interruption in the use, occupancy or operation of the Mortgaged Property, or anything which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Mortgaged Property or the compliance by the Borrower with the terms of this Loan Agreement. In furtherance of the foregoing, but without limiting any of the other provisions of this Loan Agreement, the obligation of the Borrower to make Loan Repayments and Additional Payments shall be absolute and unconditional and the Borrower shall not be entitled to any abatement, diminution, set-off, abrogation, waiver or modification thereof nor to any termination of this Loan Agreement by any reason whatsoever except as expressly provided herein, regardless of any right of set-off, recoupment or counterclaim that the Borrower might otherwise have against the Issuer or the Trustee or any other Person and regardless of any contingency, act of nature, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during or after the completion of the Project, including, without limiting the generality of the foregoing, the following:

(a) any damage to or destruction of any part or all of the Mortgaged Property or any other properties owned or operated by the Borrower;

(b) the taking by the Issuer or any public authority or agency in the exercise of the power of eminent domain or otherwise of any part or all of the Mortgaged Property or any other properties owned or operated by the Borrower;

(c) any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of or affecting the Borrower, whether with or without the approval of the Issuer or the Trustee, except as otherwise expressly provided in this Loan Agreement;

(d) any failure of the Issuer to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation, arising out of or in connection with this Loan Agreement or the Indenture, or the failure by the Trustee to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation, arising out of or in connection with the Indenture, the Mortgage or any Collateral Document;

(e) any change or delay in the time of availability of the Project or any Improvement, Related Facilities or Unrelated Improvement permitted hereunder or delays in the construction of any Improvement, Related Facilities or Unrelated Improvement permitted hereunder;

(f) the failure for any cause or reason to complete or to maintain satisfactory progress in the acquisition, construction, installation and equipping of the Project, or any Improvement, Related Facilities or Unrelated Improvement permitted hereunder;

(g) foreclosure by the Trustee of the Mortgage or the enforcement of any other remedy available hereunder, under the Indenture, or thereunder or under applicable laws;

(h) failure of consideration, failure of title or commercial frustration;

(i) any change in the tax or other laws of the United States or of any state or other governmental authority; or

(j) the appointment of a receiver of the Borrower or of all or any part of its assets.

The implementation and enforcement of this Section 4.6 is subject to amendment with the consent of Bondholders as provided in Articles IX and X of the Indenture.

Section 4.7. Surplus Funds. When all the Bonds and all other obligations incurred or to be incurred by the Borrower under this Loan Agreement have been paid, or sufficient funds (including investments in Government Obligations or Defeasance Obligations as provided in Article VI of the Indenture) are held in trust for the payment of the Bonds and all such other obligations, any surplus funds remaining to the credit of any Trust Fund shall be paid to the Borrower.

Section 4.8. Borrower's Obligation to Prepay Loan and Direct Redemption of Tax-Exempt Bonds. If the Borrower receives from any source a written notice of a Determination of Taxability with respect to the Tax-Exempt Bonds, the Borrower shall immediately notify the Trustee and Issuer of such fact and within sixty (60) days thereafter pay to the Trustee, for credit to the Debt Service Fund, an amount equal to the Redemption Price of all Outstanding Bonds payable on the Redemption Date upon which all then Outstanding Bonds are to be redeemed in accordance with Section 3.05(D) of the Indenture. Such payment shall be used by the Trustee to pay the Redemption Price of all Outstanding Bonds as provided in Section 3.05(D) of the Indenture.

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ARTICLE V

THE PROJECT

Section 5.1. Maintenance of the Project. Until all the Bonds have been redeemed or retired and all other obligations incurred or to be incurred by the Borrower under this Loan Agreement have been paid, or sufficient funds (including investments in Government Obligations in accordance with Article VI of the Indenture) are held in trust for the payment of all such obligations, the Borrower shall, maintain the Project, both inside and outside, in a good state of repair and preservation, ordinary wear and tear, obsolescence and acts of nature excepted, and will make all necessary repairs, renewals, replacements, betterments and improvements thereto so that the business carried on in connection therewith may be properly and advantageously conducted at all times. The Borrower will not use or permit the use of the Project, or any part thereof, for any unlawful purpose or permit any nuisance to exist thereon. The Borrower shall provide all equipment, furnishings, supplies and other personal property required or convenient for the proper operation, repair and maintenance of the Project in a manner consistent with then current standards of operation and administration for facilities similar to the Project.

Section 5.2. Operation of the Project. The Borrower will faithfully and efficiently administer, maintain and operate the Project, open to the general public, free of discrimination based upon race, color, religion, creed, national origin or gender. The Borrower further agrees that:

- (a) it will use, maintain and operate the Project on a revenue-producing basis;
- (b) it will use the Project only in furtherance of the lawful corporate and exempt purposes of the Borrower and the Sole Member;
- (c) it will not use the Project for sectarian instruction nor will it use the Project primarily as a place of religious worship or as a facility used primarily as a part of a program of a school or department of divinity for any religious denomination or the religious training of ministers, priests, rabbis or other similar persons in the field of religion;
- (d) it will not use the Project or suffer or permit the Project to be used by any Person or in any manner which would result in the loss of tax exemption of interest on any Tax-Exempt Bonds otherwise afforded under the Code and, further, it will not permit any of the proceeds of Tax-Exempt Bonds to be used, directly or indirectly, in any manner which would result in the Tax-Exempt Bonds being classified as Arbitrage Bonds or in any other manner which would result in the loss of tax exemption of interest on the Tax-Exempt Bonds otherwise afforded under the Code;
- (e) the Borrower will not, in any substantial way, engage in any business or activities other than (i) that of maintaining and operating the Project or facilities comparable thereto, and related activities incident thereto, or (ii) any other business or activity within the exempt purposes of the Borrower and the Sole Member; and
- (f) it will continue to be duly qualified to do business in the State and, subject to the provisions of Section 7.4 hereof, will maintain its corporate existence and maintain all licenses, permits, accreditations, and approvals needed to own and operate the Project.

Section 5.3. Additions, Alterations and Changes to Project. The Borrower shall have the right from time to time at its sole cost and expense to make additions, modifications, alterations, improvements and changes (hereinafter collectively referred to as "Alterations") in or to the Project as it, in its

discretion, may deem to be desirable for its uses and purposes, subject, however, in all cases to the following conditions:

(a) No Alteration of any kind shall be made which would result in a violation of the provisions of Section 5.2 hereof.

(b) No building or buildings constituting a part of the Project shall be demolished or removed nor shall any material Alteration to the Project be made which would substantially impair the structural strength, operating efficiency or market value thereof, or would significantly impair the revenue-producing capability of the Project or would adversely affect the ability of the Borrower to comply with the terms of this Loan Agreement.

(c) All Alterations shall be located wholly within the boundary lines of the Land and shall become a part of the Mortgaged Property subject to the Mortgage.

(d) No change shall be made in the location of any property subject to the Mortgage or any Collateral Document which removes such property into a jurisdiction in which such Mortgage or security interest thereby created has not been recorded or filed in the manner required by law to preserve such Mortgage or security interest in such property.

(e) No work in connection with any Alteration shall be undertaken until the Borrower shall have procured and paid for, so far as the same may be required, from time to time, all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction.

(f) All work in connection with any Alteration shall be done promptly and in good professional manner and in compliance with the building and zoning laws of the Issuer or other governmental subdivision wherein the Project is situated, and with all laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof, and shall not violate the provisions of any policy of insurance covering the Project, and the work shall be prosecuted with reasonable dispatch, unavoidable delays excepted.

(g) Workers' compensation insurance shall cover all persons employed in connection with the Alterations and with respect to whom death or bodily injury claims could be asserted against the Borrower or the Mortgaged Property, and general liability insurance (specifically covering this class of risk) in such amounts customarily carried by like organizations engaged in like activities of comparable size and liability exposure and as otherwise required or permitted by applicable law. The general liability insurance provided for in this paragraph may be effected by an appropriate endorsement, if obtainable, upon the insurance referred to in Section 5.10 hereof. All such insurance shall be obtained through financially sound and reputable insurance companies or an Insurance Subsidiary.

Section 5.4. Installation and Removal of Equipment by the Borrower. The Borrower may from time to time in its sole discretion install or place within the Project or elsewhere on the Land items of personalty. All such items so installed by the Borrower shall not, unless acquired from proceeds of Additional Bonds or Long-Term Indebtedness be subject to the lien of the Mortgage or are substitutions or replacements of Pledged Equipment, become part of the Project and be included under the terms of this Loan Agreement and subject to the lien of the Mortgage, but may be subject to a lease or other purchase money security interest, the lien of which is superior to the lien of the Mortgage. So long as it is not in default hereunder, the Borrower may, without the consent of the Issuer or the Trustee, remove, alter or modify any item of personalty, but any damage resulting to the Project therefrom shall be repaired and the

Project restored to its previous condition at the sole expense of the party effecting such removal or at the sole expense of the Borrower, provided, however, that Pledged Equipment may only be removed from any facility comprising the Project as provided in the Mortgage.

Section 5.5. No Credit for Additions or Replacements. The Borrower shall not be entitled to any credit upon Loan Repayments, Additional Payments, or other obligations under this Loan Agreement on account of the addition or replacement of any portion of the Project.

Section 5.6. Inspection of Project. The Trustee and its duly authorized agent shall have the right at all reasonable times upon reasonable notice to examine and inspect the Project and for that purpose shall have such rights of access to the Land and Project Buildings as may be reasonably necessary to assure that the Project is being properly maintained in accordance herewith. The Trustee is under no duty or obligation to make any such inspection.

Section 5.7. Taxes, Charges and Assessments. Subject to the provisions of Section 5.9 hereof relating to permitted contests, the Borrower agrees to pay or cause to be paid:

(a) all taxes and charges on account of the use, occupancy or operation of the Mortgaged Property, including but not limited to all sales, use, occupation, personal property, business and occupation taxes, permit and inspection fees, occupation and license fees and water, gas, electric light, power or other utility charges assessed or charged on or against the Mortgaged Property or on account of the Borrower's use or occupancy thereof or the activities conducted thereon or therein; and

(b) all other lawful governmental taxes, fees, charges, assessments and impositions of every kind or nature, ordinary or extraordinary, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, and all applicable interest and penalties thereon, if any, which shall be or become due and payable and which shall be lawfully levied, assessed or imposed.

If under applicable law any such tax, fee, charge, assessment, or imposition may at the option of the taxpayer be paid in installments, the Borrower may exercise such option. Nothing contained herein shall be deemed to constitute an admission by the Borrower to any third party that the Borrower is liable for, or its properties are subject to, any tax, charge, fee, rate, imposition or assessment.

Section 5.8. Liens and Encumbrances. The Borrower represents and warrants that, as of the Closing Date, no lien, charge or encumbrance, other than Permitted Encumbrances, exists upon the Mortgaged Property, and no Loan Repayments or no Additional Payments exist prior to this Loan Agreement or the Mortgage. Except as otherwise permitted by the provisions of this Loan Agreement, the Mortgage or any Collateral Document, the Borrower will not create or suffer to be created any lien, encumbrance or charge upon the Mortgaged Property, other than Permitted Encumbrances, and, subject to the provisions of Section 5.9 hereof relating to permitted contests, it will satisfy or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall occur, all lawful claims and demands for labor, materials, supplies or other items which, if not satisfied, might by law become a lien upon the Mortgaged Property; provided that liens for labor or materials arising by operation of statutory law shall not be within the purview of this Section 5.8 if, when such liens shall be perfected, the Borrower shall cause them to be promptly discharged. If any such lien shall be filed or asserted against the Mortgaged Property, or any installment of Loan Repayments or Additional Payments, by reason of work, labor, services or materials supplied or claimed to have been supplied, the Borrower shall, subject to the provisions of Section 5.9 hereof relating to permitted contests, within thirty (30) days after it receives notice of the filing thereof or the assertion thereof, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Project, or any

installment of Loan Repayments or Additional Payments, by contest, payment, deposit, bond, order of court or otherwise.

Section 5.9. Permitted Contests. The Borrower shall not be required to pay any tax, fee, charge, assessment, or imposition referred to in Section 5.7 hereof, nor to remove any lien, charge or encumbrance required to be removed under Section 5.8 hereof, so long as the Borrower shall contest, in good faith and at its own cost and expense, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, fee, charge, assessment, imposition, lien, charge or encumbrance so contested, and the sale, forfeiture, or loss of the Mortgaged Property or any part thereof, or of the Loan Repayments or Additional Payments or any portion thereof, to satisfy the same; provided that no such contest shall subject the Issuer or the Trustee to the risk of any liability. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of the Borrower to settle any such contest), and in any event the Borrower will save the Issuer and the Trustee harmless against all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) and will, promptly after the final determination of such contest or settlement thereof, pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interests, costs and expenses thereon or in connection therewith. The Borrower shall give the Issuer and Trustee prompt written notice of any such contest and provide the Issuer and the Trustee an Opinion of Counsel that by nonpayment of any of the foregoing items the lien of the Mortgage as to any substantial part of the Mortgaged Property will not be materially endangered; the Mortgaged Property, or any substantial part thereof, will not be subject to imminent loss or forfeiture; and the obligations of the Borrower under this Loan Agreement will not be materially impaired. Notwithstanding the foregoing, nothing herein shall be construed to prevent the Issuer or any other unit of government from assessing or taxing the Mortgaged Property or any other property of the Borrower or from contesting any claim of the Borrower as to the amount or invalidity of any such assessment or tax.

Section 5.10. Insurance. The Borrower shall at all times keep and maintain the Project insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with the operation of facilities of a type and size comparable to the Project. Subject to the provisions of Section 5.12 hereof, the Borrower shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for, at least the following insurance with respect to the Project and the Borrower:

(a) insurance coverage for buildings and contents including steam boilers, fired-pressure vessels and certain other machinery for fire, lightning, windstorm and hail, explosion, aircraft and vehicles, sprinkler leakage, elevator, and all other risks of direct physical loss, at all times in an amount equal to the full replacement value of the Project. "Full replacement value" shall include the actual replacement cost of the Project (exclusive of foundations, footings, architectural, engineering, legal, and administrative fees) without deduction for depreciation. The policies required by this paragraph (a) shall either be subject to no co-insurance or contain an agreed amount clause and may contain a deductible provision not exceeding \$100,000;

;

(b) **general liability (other than as set forth in paragraph (c) below) in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate; provided that the requirements of this paragraph (b) with respect to the amount of insurance may be satisfied by an excess coverage policy;**

(c) **comprehensive automobile liability insurance and, to the extent relevant to the operations of the Borrower, professional liability insurance;**

(d) **workers' compensation insurance or self-insurance as required by the laws of the State;**

(e) **commencing when the Project is placed in service and thereafter, business or rental interruption insurance covering actual losses in gross operating earnings of the Borrower resulting directly from necessary interruption of business caused by damage to or destruction from the perils listed above in subsection (a) hereof to real or personal property constituting part of the Project, less charges and expenses which do not necessarily continue during the interruption of business, with limits equal to at least twelve (12) months of actual losses in gross operating earnings; and**

(f) **while any improvement is in the course of being constructed or rebuilt on the Land, Borrower shall provide the aforesaid hazard insurance in builder's risk completed value form, including coverage available on the so-called "all-risk" non-reporting form of policy for an amount equal to one hundred percent (100%) of the insurable replacement value of such building or other improvement.]**

Section 5.11. Insurers and Policies. Each insurance policy required by Section 5.10 hereof shall (a) be issued or written by such insurer (or insurers) as is financially responsible, or by an insurance fund established by the United States or State or an agency or instrumentality thereof or an Insurance Subsidiary; (b) be in such form and with such provisions (including, without limitation and where applicable, loss payable clauses payable to the Trustee, waiver of subrogation clauses, and provisions relieving the insurer of liability to the extent of minor claims) as are generally considered standard provisions for the type of insurance involved; and (c) prohibit cancellation or substantial modification by the insurer without prior written notice to the Borrower. Without limiting the generality of the foregoing, all insurance policies carried pursuant to Section 5.10(a) and (b) hereof shall name the Trustee and the Borrower as parties insured thereunder as the respective interest of each of such parties may appear, and loss thereunder shall be made payable and shall be applied as provided in this Article V or in Section 8.2 hereof, as the case may be. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance nor shall the Trustee be responsible for confirming that any such policies conform to the requirements set forth herein.

Section 5.12. Insurance Consultant. The Borrower covenants to review each year the insurance carried by the Borrower with respect to the Borrower and the Project and, to the extent feasible, will carry insurance insuring against the risks and hazards specified in Section 5.10 hereof to the same extent that other corporations comparable to the Borrower and owning or operating facilities of the size and type comparable to the Project carry such insurance. The Borrower shall annually certify to the Trustee on each **[July 1]** that the insurance required under Section 5.10 hereof is in full force and effect. At least once every five (5) years from and after the date hereof, the Borrower shall retain an Insurance Consultant for the purpose of reviewing the insurance coverage of, and the insurance required for, the Borrower and the Project and making recommendations respecting the types, amounts and provisions of insurance that should be carried with respect to the Borrower and the Project and their operation, maintenance and administration. A signed copy of the report of the Insurance Consultant shall be filed with the Trustee. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance. The insurance requirements specified in Section 5.10 hereof and this Section 5.12 shall be deemed modified or superseded as necessary to conform with the recommendations contained in said report. The Trustee's sole obligation with respect to said reports is to hold them as a repository and to provide copies to Bondholders who make a written request to receive them.

Section 5.13. Borrower to Repair, Replace, Rebuild or Restore. If there are any Outstanding Bonds when all or any part of the Project is taken by eminent domain, or destroyed or damaged, unless

the Borrower exercises its option to direct the Issuer to call Outstanding Bonds for redemption pursuant to Section 8.2 hereof:

(a) The Borrower shall proceed promptly, subject to the provisions of subsection (b) below, to replace, repair, rebuild and restore the Project to substantially the same condition as existed before the taking or event causing the damage or destruction, with such changes, Alterations and modifications (including substitution or addition of other property) as may be desired by the Borrower and which will be suitable for continued operation of the Project for the business purposes of the Borrower, and the Borrower will pay all costs thereof and is entitled to retain all Net Proceeds of the condemnation award or insurance claim.

(b) If the condemnation award or insurance claim exceeds \$250,000, all Net Proceeds of the condemnation award or insurance claim shall be applied by the Borrower to the payment of the costs of repair, replacement, rebuilding or restoration of the Project. If the Net Proceeds are not sufficient to pay such costs in full, the Borrower will nonetheless complete the same and will pay that portion of the cost thereof in excess of the amount of the Net Proceeds.

(c) The Borrower shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the Issuer or any abatement or diminution of the Loan Repayments or the other sums payable by the Borrower hereunder.

(d) All buildings, improvements and equipment acquired in the repair, rebuilding, replacement or restoration of the Project, together with any interests in land acquired by the Borrower as necessary for such restoration, shall be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any additional amounts other than those provided herein, to the same extent as if they had been specifically described in this Loan Agreement; provided that no land, interest in land, buildings, improvements or equipment shall be acquired subject to any lien or encumbrance, other than Permitted Encumbrances.

Section 5.14. Cooperation of the Issuer and the Trustee. The Issuer and the Trustee will cooperate fully with the Borrower in filing any proof of loss with respect to any insurance policy covering casualties referred to in Section 5.13 hereof, in the handling and conduct of any litigation arising with respect thereto, and in the handling and conduct of any prospective or pending condemnation proceedings affecting the Project or any part thereof, and will, to the extent they may lawfully do so, permit the Borrower to litigate in any such litigation or proceeding in the name and on behalf of the Issuer and Trustee. Any costs incurred pursuant to this Section shall be paid by the Borrower. So long as the Borrower is not in default hereunder, neither the Issuer nor Trustee will voluntarily settle or consent to the settlement of any proceeding arising out of any insurance claim, or any prospective or pending condemnation proceeding, with respect to the Project or any part thereof without the written consent of the Borrower; provided that the foregoing provisions of this Section 5.14 shall not be construed as waiving or otherwise impairing the authority of the Issuer to condemn all or a portion of the Project in accordance with law.

Section 5.15. Business Interruption Insurance Proceeds. All proceeds of business interruption insurance required to be maintained pursuant to Section 5.10(e) hereof shall be deposited in the Debt Service Fund, but only to the extent necessary to satisfy the obligations of the Borrower under Section 4.2 hereof.

ARTICLE VI

INDEBTEDNESS

Section 6.1. Indebtedness Generally. The Borrower agrees that, until all of its obligations under this Loan Agreement have been fully paid and discharged, the Borrower shall not, directly or indirectly, incur any Indebtedness except as provided in this Article VI.

Section 6.2. Short-Term Indebtedness; Other Indebtedness and Interim Indebtedness.

(a) [The Borrower may incur such Short-Term Indebtedness as in the Borrower's judgment may be deemed expedient, provided that Short-Term Indebtedness when incurred shall not cause the total Short-Term Indebtedness to exceed in the aggregate then outstanding five percent (5%) of the Gross Revenues of the Borrower for the preceding Audited Fiscal Year, except as provided in the next sentence. Any Short-Term Indebtedness in excess of such amount shall be treated as Long-Term Indebtedness for all purposes of this Loan Agreement. Short-Term Indebtedness may be secured only by a pledge and assignment of all or any part of the Borrower's accounts receivable or personal property not constituting part of the Mortgaged Property.]

(b) [The Borrower may incur such Other Indebtedness as it deems expedient, provided that before incurring any Other Indebtedness the Borrower shall furnish the Trustee a Borrower Certificate signed by the chief financial officer or chief manager of the Borrower stating that the Net Revenues Available for Debt Service for the last Audited Fiscal Year were not less than the amount described in Section 6.3(b) hereof and that the estimated Net Revenues Available for Debt Service for each of the three consecutive Fiscal Years beginning after the Fiscal Year in which such Other Indebtedness is to be incurred (after giving effect to such Other Indebtedness) will be not less than the amount described in Section 6.3(b) hereof.]

(c) [The Borrower may incur Interim Indebtedness to provide temporary financing of Improvements and Unrelated Improvements for which the Issuer has previously agreed to provide permanent financing by the issuance of Additional Bonds therefor or for which other lenders or issuers have previously agreed to provide permanent financing, but only after the right of the Borrower to enter into the permanent financing has been established as described in Section 6.3 below.]

Section 6.3. Long-Term Indebtedness. [The Borrower may incur Long-Term Indebtedness pursuant to the requirements of this Section for the purpose of (i) refunding Outstanding Bonds, (ii) refinancing outstanding Long-Term Indebtedness, or (iii) financing or refinancing the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements. The Long-Term Indebtedness may include amounts necessary to pay the costs of the Borrower in incurring such Long-Term Indebtedness, to fund reserves for the payment of such Long-Term Indebtedness and to fund interest payable on such Long-Term Indebtedness for a period of time not to exceed six (6) months beyond the completion of construction of any Related Facilities, Improvements or Unrelated Improvements financed thereby.]

(a) Before incurring or otherwise becoming liable in respect of any Long-Term Indebtedness, the Borrower shall furnish the Trustee (i) a Borrower Certificate stating, among other things, that the proposed Long-Term Indebtedness, together with any other funds available to and committed or reserved by the Borrower for use in connection with such financing, refinancing or refunding, which other funds shall be identified as to amount and source, is not less than the amount required to complete payment of

all costs to be incurred by the Borrower in conjunction with the financed activities as described in the preceding paragraph, and to pay all fees, expenses and financing costs, including required reserves and funded interest, in connection therewith; and (ii) an Opinion of Counsel for the Borrower to the effect that all conditions precedent specified in this Loan Agreement for incurring such Long-Term Indebtedness have been satisfied.

(b) Except as provided in subsection (c) below, the Borrower shall not incur any Long-Term Indebtedness to refinance outstanding Long-Term Indebtedness or to finance or refinance the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements unless it shall furnish the Trustee, in addition to the items described in subsection (a) above, (i) a Borrower Certificate stating that for each of the last two (2) Audited Fiscal Years the Net Revenues Available for Debt Service are at least one hundred thirty percent (130%) of the maximum Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for any then outstanding Long-Term Indebtedness to be refinanced by the proposed Long-Term Indebtedness and any debt service on Subordinate Indebtedness); or (ii) a report examined by an Independent Accountant to the effect that the estimated Net Revenues Available for Debt Service for each of the three (3) consecutive Fiscal Years following the Fiscal Year in which any Related Facilities, Improvements or Unrelated Improvements being financed by such Long-Term Indebtedness are to be placed in service, or, if no Related Facilities, Improvements or Unrelated Improvements are to be financed thereby, for the Fiscal Year following the Fiscal Year in which the proposed Long Term Indebtedness is to be incurred, will be not less than one hundred thirty-five percent (135%) of maximum Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for any then outstanding Long-Term Indebtedness to be refinanced by the proposed Long-Term Indebtedness and any debt service on Subordinate Indebtedness); (iii) the Subordinate Bonds are no longer outstanding (unless consented to be the Majority of Bondholders); and (iv) the Borrower is in compliance with all financial covenants under this Loan Agreement and no Event of Default has occurred or is continuing hereunder, under the Indenture or any of other the Borrower Documents.]

(c) [Notwithstanding the provisions of subsection (b) above, the Borrower may incur Long-Term Indebtedness (i) to finance the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements if such Related Facilities, Improvements or Unrelated Improvements are necessary in order to comply with any order of the of America or the, or any agency thereof, or to comply with the requirements of any nationally recognized health care accrediting agency; (ii) if and to the extent necessary to provide additional funds for completing payment of the cost of any Related Facilities, Improvements or Unrelated Improvements for which any Long-Term Indebtedness shall have been incurred at one time or from time to time under this Loan Agreement or for which Additional Bonds shall have been issued at one time or from time to time under the Indenture; (iii) for the current refunding of the principal amount of any outstanding Long-Term Indebtedness, provided the average annual Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for the Long-Term Indebtedness to be refinanced thereby) for the proposed Long-Term Indebtedness will be no greater than the average annual Principal and Interest Requirements on Long-Term Indebtedness would have been on the refinanced Long-Term Indebtedness; or (iv) for refinancing the principal amount of Interim Indebtedness previously incurred.]

(d) [Any Long-Term Indebtedness may be secured by a pledge, lien, mortgage or other security interest with respect to any tangible property of the Borrower as the parties thereto may provide, but other than Additional Bonds, not any intangible property of the Borrower or lien upon or security interest in revenues or income of the Borrower or its accounts receivable; provided,

however, that the Borrower shall not secure nor attempt to secure Long-Term Indebtedness with an interest in the property secured under the Mortgage or any Collateral Documents which is prior to or, except as provided in this subsection (d), on a parity with the interest granted to the Trustee pursuant to the Mortgage or any Collateral Document. If the Borrower delivers to the Trustee a Borrower Request requesting the same, any or all such Long-Term Indebtedness (other than Long-Term Indebtedness incurred pursuant to subsection (c)(iv) above) and all indebtedness of the Borrower under this Loan Agreement shall be payable and secured equally, without preference or priority, by all security provided for either or both, except that the Debt Service Fund and Debt Service Reserve Fund shall be solely for the security of the Bonds. In the event that the Borrower shall propose so to secure any such Long-Term Indebtedness, the Issuer, the Trustee and the Borrower shall take such actions (including amendment or supplement of this Loan Agreement, the Mortgage and the Indenture) and execute, deliver, file and record such instruments of security as their respective counsel agree to be necessary or appropriate to grant to and/or otherwise secure for the holder or holders of the Long-Term Indebtedness an interest under the Mortgage equivalent to that of the Trustee, and the Borrower shall as a condition of securing such Long-Term Indebtedness execute, deliver, file and record, and cause to be executed, delivered, filed and recorded by such holder, or holders, such documents as counsel for the Trustee and the Borrower agree to be necessary or appropriate to grant to and/or otherwise secure for the Trustee an interest in any security granted to the holder or holders of the Long-Term Indebtedness and not theretofore granted to the Trustee equivalent to the interest granted to such holder or holders, to the end that all such outstanding secured Long-Term Indebtedness and all outstanding Indebtedness under this Loan Agreement shall be of equal rank and be entitled to share paripassu in all security (other than the Debt Service Fund and the Debt Service Reserve Fund). Notwithstanding the foregoing, the Borrower shall not incur any Long-Term Indebtedness on a parity with the Series 2025A Bonds and Series 2025A-T Bonds so long as the Series 2025B Bonds are outstanding.]

Any default under any agreement for repayment of Long-Term Indebtedness secured on a parity under the Mortgage with the Indebtedness of the Borrower under this Loan Agreement shall be an Event of Default under this Loan Agreement and there shall be included in any agreement for repayment of such Long-Term Indebtedness a provision that any default under this Loan Agreement shall be a default under such agreement. In addition, any agreement for repayment of such Long-Term Indebtedness shall include a provision that, prior to exercising any remedies upon a default by the Borrower under such agreement, the holder or holders of such Long-Term Indebtedness (or a trustee representing such holders) shall cooperate with the Trustee to the end that the interests of such holder or holders and the Bondholders shall be equally protected.

Section 6.4. Calculation of Debt Service. [The calculation of Principal and Interest Requirements on Long-Term Indebtedness whether pursuant to this Loan Agreement or the Indenture, shall be made in a manner consistent with that set forth in Section 6.3 hereof and the following:

(a) Balloon Indebtedness shall be assumed to be amortized in substantially equal annual amounts to be paid for principal and interest over an assumed amortization period of years equal to the number of years from the date of issuance of such Balloon Indebtedness to its stated maturity and at the stated interest rate applicable to such Balloon Indebtedness.

(b) In determining the amount of debt service payable on Variable Rate Indebtedness for any future period, interest on such indebtedness for any period of calculation (the “Determination Period”) shall be computed by assuming that the rate of interest applicable to the Determination Period is equal to the average annual rate of interest on similar securities (calculated in the manner in which the rate of interest for the Determination Period is to be calculated) which

was in effect for the twenty-four (24) month period prior to a date selected by the Borrower, which selected date is within forty-five (45) days immediately preceding the beginning of the Determination Period, as reported by a banking or investment banking institution knowledgeable in matters of variable rate financing, plus two percent (2%) per annum, or, if it is not possible to calculate such average annual rate of interest, by assuming that the rate of interest applicable to the Determination Period is equal to the rate of interest then in effect on such Variable Rate Indebtedness, plus two percent (2%) per annum. In addition, debt service shall include any continuing credit enhancement, liquidity and/or remarketing fees for the relevant period.

(c) [If any Long-Term Indebtedness is by its terms payable in one (1) or more principal installments which in any Fiscal Year are greater than in any prior Fiscal Year, the Borrower and the Trustee may enter into a written agreement providing for the deposit, by the Borrower with the Trustee, into a special redemption fund, which shall not be a part of the Trust Estate, on one (1) or more specified dates prior to the date or dates on which such Long-Term Indebtedness shall be due and payable, of specified amounts, and providing for payment of such Long-Term Indebtedness or the installments thereof from such special redemption fund and for the procedures to be followed with respect thereto, and in such event and upon the making of such agreement and upon providing the Trustee an Opinion of Counsel that such agreement is a valid, binding and enforceable agreement of the Borrower the amounts required by such agreement to be deposited with the Trustee may, at the option of the Borrower, be treated as the annual principal requirements for such Long-Term Indebtedness for the purpose of computing Principal and Interest Requirements on Long-Term Indebtedness.]

(d) Debt service on any Subordinate Indebtedness shall be excluded for purposes of any calculations Section 7.9(b)-(f) hereof.]

Section 6.5. [Subordinate Indebtedness. Except as set forth in Section 6.1, 6.2, or 6.3 hereof, the Borrower will not incur or assume any Indebtedness secured by a lien on all or any portion of the Mortgaged Property or the Trust Estate or payable from Net Revenues Available for Debt Service, other than the Subordinate Indebtedness.]

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ARTICLE VII

SPECIAL COVENANTS

Section 7.1. Restrictions. The Issuer and the Borrower acknowledge and agree that the Loan Repayments and all other rights, title and interest of the Issuer in this Loan Agreement (other than the Issuer's Unassigned Rights) are being assigned and a security interest therein granted to the Trustee as security for the Bonds issued under the Indenture and that the Issuer has entered into certain covenants with the Trustee in the Indenture which may affect the Project and this Loan Agreement in the event of default hereunder.

Section 7.2. Nature of Issuer's Covenants; Release.

(a) The Borrower acknowledges and agrees that any obligation of the Issuer created by or arising out of this Loan Agreement shall be payable solely out of the proceeds derived from this Loan Agreement or any Collateral Document, the sale of the Bonds, the Limited Guaranty, any insurance and condemnation awards received pursuant hereto or sale or other disposition of the Mortgaged Property upon a default by the Borrower. The foregoing limitation shall not, however, preclude the Borrower from seeking injunctive relief in any court to compel the Issuer to perform any such obligation.

(b) The Borrower acknowledges and agrees that the Issuer shall not be liable to the Borrower, and releases and discharges the Issuer from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Trustee or any other party with respect to the Bonds, the Indenture, this Loan Agreement, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Trustee or any third party of any of its rights or remedies pursuant to any of such documents.

Section 7.3. Issuer to Reasonably Cooperate. Whenever any provision of this Loan Agreement gives the Borrower any rights, the full realization of which is or may be subject to further action of the Trustee under the Indenture, the Issuer will cooperate with the reasonable requests of the Borrower and will, at the expense of the Borrower, supply all necessary certificates and other things reasonably requested by the Borrower to the Trustee to effect the intent of this Loan Agreement.

Section 7.4. Continuing Existence and Qualification. The Borrower will maintain its existence as a nonprofit limited liability company under the laws of the State whose Sole Member is an organization described in Section 501(c)(3) of the Code and exempt from federal income taxation under Section 501(a) of the Code (or any successor sections of a subsequent federal income tax statute or code). The Borrower will remain duly qualified to do business in the State and will not dispose of all or substantially all of its assets by sale, lease (unless permitted by the provisions of Section 7.4 hereof) or otherwise or consolidate with or merge into another entity or permit any other entity to consolidate with or merge into it unless:

(a) the surviving, resulting or transferee entity, as the case may be, if other than the Borrower, (i) is organized under the laws of the United States of America or one of the states thereof, (ii) is duly qualified to do business in the State, (iii) is a Tax-Exempt Organization, (iv) is or has as one of its members the Sole Member or an Affiliate or any combination of them, and (v) has total unrestricted net assets at least equal to that of the Borrower as of the date of such consolidation, merger or transfer;

(b) at least thirty (30) days before any merger, consolidation or transfer of assets becomes effective, the Borrower shall give the Issuer and the Trustee written notice of the proposed transaction;

(c) prior to any merger, consolidation or transfer of assets, an opinion of Bond Counsel is delivered to the Trustee stating that such merger, consolidation or transfer of assets will not cause interest on the Outstanding Tax-Exempt Bonds to become includable in the gross income for federal income tax purposes of recipients thereof subject to federal income taxation;

(d) prior to any merger, consolidation or transfer of assets, the surviving, resulting or transferee corporation, as the case may be, if other than the Borrower, shall deliver to the Trustee an instrument assuming all of the obligations of the Borrower under the Borrower Documents and any Collateral Document and an Opinion of Counsel for such successor corporation stating that the instrument is (subject to customary qualifications) a valid, binding and enforceable obligation of such successor and that all of the conditions of this Section 7.4 have been satisfied; and

(e) the surviving, resulting or transferee corporation, as the case may be, is able to incur at least one dollar of Long-Term Indebtedness without violating the provisions of Section 6.3 hereof;

and upon meeting the conditions set forth in the paragraphs above, the Borrower may merge, consolidate or dispose of all or substantially all of its assets and thereafter dissolve.

Section 7.5. Bankruptcy. The Borrower will not go into voluntary bankruptcy or insolvency, or apply for or consent to the appointment of a receiver or trustee of itself or of its property or make any general assignment for the benefit of its creditors, or allow any order adjudicating it to be bankrupt or insolvent or appointing a receiver or trustee of its property.

Section 7.6. Compliance and Notice of Default. The Borrower will not permit any default to occur under this Loan Agreement, but will faithfully observe and perform all of the conditions, covenants and agreements hereof. The Borrower will give to the Trustee and the Issuer prompt notice of any condition or event that constitutes an Event of Default or, with the passage of time and/or the giving of notice, would constitute an Event of Default under Section 9.1(b) through (g) hereof.

Section 7.7. Indemnity.

(a) The Borrower will indemnify, defend, and hold harmless the Issuer and Trustee and their respective employees, commissioners, officers and agents (the "Indemnified Parties"), from and against any and all liability, damages and claims by or on behalf of any person, firm, corporation or other legal entity:

(i) arising from the conduct, operation or management of, or from, any work or thing done on or to the Project during the term of this Loan Agreement, including, without limitation, (1) any condition of the Project; (2) any breach or default on the part of the Borrower in the performance of any of its obligations under this Loan Agreement; (3) any act of negligence of the Borrower or of any of its agents, contractors, servants, employees or licensees; or (4) any act of negligence of any assignee or lessee of the Borrower, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Borrower; and

(ii) to which the Indemnified Parties may become subject under any law in connection with the issuance and sale of the Bonds, the carrying out of the transactions contemplated by this Loan Agreement or the Indenture, and the conduct of any activity in connection with the Project including claims for which the Indemnified Parties may be or may be

claimed to be liable, but excluding claims for which the Indemnified Parties are found to be liable and to reimburse the Indemnified Parties for any out-of-pocket legal and other expenses (including reasonable counsel fees) incurred by the Indemnified Parties in connection with investigating any such losses, claims, damages or liabilities, or in connection with defending any actions relating thereto, but excluding reimbursement of fees and expenses incurred with respect to claims for which the Indemnified Parties are found to be liable; and

(iii) in connection with any action or proceeding brought with respect to any such claim arising as aforesaid, and upon notices from the Issuer or Trustee, the Borrower shall defend them or either of them in any such action or proceeding.

(b) The Indemnified Parties agree, at the request and expense of the Borrower, to cooperate in the making of any investigation in defense of any such claim and promptly to assert any or all of the rights and privileges and defenses identified in writing by the Borrower which may be available to the Indemnified Parties.

(c) Promptly upon written notice received from the Borrower from any Indemnified Party or parties of any claim or the commencement of any action or proceeding specified in the preceding paragraphs, the Borrower will at the request of such Indemnified Party or parties, assume the investigation and defense of such action or proceeding including the employment of counsel satisfactory to such Indemnified Parties and the payment of the fees and disbursements of such counsel. In the event that any Indemnified Party or parties shall determine, in the exercise of their reasonable judgment, that there exists conflict of interest by reason of having a common counsel with the Borrower or with any other Indemnified Party, or there are defenses available to such Indemnified Party which are adverse with those available to the Borrower or with any other Indemnified Party or which such Indemnified Party believes in good faith cannot be effectively asserted by common counsel, or if the Borrower elects not to defend the action with respect to any or all Indemnified Parties, then each such Indemnified Party may employ separate counsel satisfactory to the Borrower to represent or defend it in any such action or proceeding in which it may become involved or is named as defendant and the Borrower will pay as incurred the reasonable fees and disbursements of such counsel. Each Indemnified Party always has the right to employ separate legal counsel but, subject to the preceding sentence, the fees and expenses of its separate legal counsel must be paid by the Indemnified Party unless the Borrower and Indemnified Party have mutually agreed to the employment of the Indemnified Party's counsel. The Borrower is not liable for any settlement of a suit, claim, demand, action or proceeding effected without its written consent and the Borrower agrees that it will not settle any claim or action without the consent the applicable Indemnified Party. The Borrower also agrees to notify all Indemnified Parties promptly of the commencement of any action against the Borrower or any of its officers, directors, partners, employees or agents, as the case may be, of any claim or the commencement of any action or proceeding arising from any act or omission of the Borrower or any of its agents, servants or employees in connection with this Loan Agreement, the Indenture or the Project.

(d) If the Indemnified Parties incur any expense or suffer any losses, claims or damages or incur any liabilities in connection with the transaction contemplated by this Loan Agreement, the Borrower will indemnify, defend, and hold harmless the Indemnified Parties from the same and will reimburse the Indemnified Parties for any reasonable legal or other expenses incurred by the Indemnified Parties in relation thereto. The Borrower shall also reimburse the Indemnified Parties for all other costs and expenses, including without limitation, attorneys' fees paid or incurred by the Indemnified Parties in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of this Loan Agreement, and the documents and instruments related hereto; (ii) any amendments or modifications hereto or the Indenture and any document, instrument or agreement related thereto and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable

to effect such amendments or modification; and (iii) the enforcement by the Indemnified Parties during the term of this Loan Agreement or thereafter of any of the rights or remedies of the Issuer under this Loan Agreement or under the Indenture or any document, instrument or agreement related thereto, including, without limitation, costs and expenses of collection in the event of default by the Borrower, whether or not suit is filed with respect thereto.

The provisions of this Section 7.7 shall survive the retirement and payment of the Bonds and termination of this Loan Agreement and the Indenture.

Section 7.8. Federal Grants. The Borrower covenants that, so long as any Bonds are Outstanding, if at any time or times the Borrower obtains federal grants in aid, it will at all times comply with the terms of such grants and the laws and regulations under which they are made. The Borrower covenants that it will not apply federal grants in such a manner as to cause the Bonds to become “federally guaranteed” as defined in Section 7.11 hereof.

Section 7.9. Rates and Charges; Liquidity Covenants; Retention of Management Consultant.

(a) The Borrower will fix, charge and collect, or cause to be fixed, charged and collected, subject to applicable requirements or restrictions imposed by law, such rents, rates, fees and charges for the use of the Project and for the services furnished or to be furnished by the Borrower at the Project, such that the Borrower’s Net Revenues Available for Debt Service (including Management Fees paid to Sole Member in Project Operating Expenses) in each Fiscal Year, commencing with the Fiscal Year ending September 30, 20___, will be at least one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) during such Fiscal Year . [If this rate covenant is not met for the Fiscal Year immediately prior to any proposed asset transfer, the Borrower may not transfer any funds or assets for less than fair market value.] The foregoing is subject to the qualification that if applicable state or federal laws or regulations, or the rules and regulations of agencies having jurisdiction, shall not permit the Borrower to fix, charge or collect such level of rents, rates, fees and charges needed to produce Net Revenues Available for Debt Service to be at least 120% of MADS, then the Borrower shall, in conformity with the then prevailing laws, rules or regulations, maintain rents, rates, fees and charges to equal the maximum permissible level. Although the payment of Management Fees is subordinated to the payment of debt service on the Series 2025A Bonds, the Series 2025A-T Bonds, and the Series 2025B Bonds, Management Fees paid to Sole Member shall be included in the calculation of Project Operating Expenses when calculating the ratio of the Borrower’s Net Revenues Available for Debt Service to Principal and Interest Requirements on Long-Term Indebtedness.]

(b) Commencing with the Fiscal Year ending September 30, 2028, and based on audited financial statements, the Borrower covenants and agrees to maintain the following days’ Cash on Hand requirements (the “Liquidity Covenant”):

(1) for the Fiscal Year ending September 30, 2028, at least forty-five (45) days’ Cash on Hand; and

(2) for the Fiscal Year ending September 30, 2029, and each Fiscal Year thereafter, at least sixty (60) days’ Cash on Hand.

(c) In calculating the Liquidity Covenant in subsection (b) above, the Borrower shall include Management Fees paid to Sole Member in the calculation of Project Operating Expenses.

(d) If the Net Revenues Available for Debt Service for any Fiscal Year ending on or after September 30, 20____, are less than one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (after taking into consideration and including as ordinary income, any cash contributions or cash equivalents contributed to the Borrower by an Affiliate of the Borrower) (excluding debt service on Subordinate Indebtedness) during such Fiscal Year [or the Borrower shall fail to maintain Cash on Hand as required in subsection (b) above for such Fiscal Year] , then the Borrower will promptly employ a Management Consultant to review and analyze the reports required by Section 7.10 hereof to be made by the Borrower, inspect the Project, its operation and administration and submit to the Borrower and Trustee written reports, and make such recommendations as to the operation and administration of the Project as such Management Consultant deems appropriate, including any recommendation as to a revision of the rents, rates, fees and charges of the Project or the methods of operation thereof. The Borrower agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty to review any such recommendations and shall have no responsibility for the sufficiency, adequacy, or implementation of such recommendations. The Trustee has no duty or obligation to monitor the Borrower's compliance with any recommendations of the Management Consultant. If requested, the Borrower shall provide the Trustee with a written certification that the Borrower has, to the fullest extent practicable, adopted and is carrying out the recommendations of the Management Consultant and the Trustee shall be fully protected in relying on such written certification.

(e) Subject to Section 7.9(f), So long as the Borrower is otherwise in full compliance with its obligations under this Loan Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default that the Net Revenues Available for Debt Service for any Fiscal Year ending on or after September 30, 20____, are less than one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) for such Fiscal Year [or Cash on Hand is less the amount required under subsection (b) above] . If requested, the Borrower shall provide the Trustee with a written certification that the Borrower is, to the fullest extent practicable, in compliance with the recommendations of the Management Consultant and the Trustee shall be fully protected in relying on such written certification.

(f) Notwithstanding the immediately preceding subsection, if the Borrower has retained a Management Consultant as provided above, but at the end of the Audited Fiscal Year in which the recommendations of the Management Consultant have been implemented or any subsequent Audited Fiscal Year, Net Revenues Available for Debt Service as of the end of such Audited Fiscal Year are less than one hundred percent (100%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) for such Audited Fiscal Year **[or Cash on Hand is less than _____ days]** (as evidenced by the Borrower's audited financial statements for such Audited Fiscal Year), then the Majority of Bondholders may either (1) direct the Trustee to declare an Event of Default; or (2) direct the Trustee to exercise one or more of the remedies permitted under this Loan Agreement and the Indenture.

Section 7.10. Inspections; Reports, Financial Statements.

(a) The Trustee may, and upon the direction of the Majority of Bondholders shall, through its officers, employees, consultants, attorneys and other authorized representatives, upon reasonable notice, have free and unobstructed access at all reasonable times to the Mortgaged Property and records of the Borrower with respect thereto for purposes of inspection. The Borrower will at any and all reasonable times, upon the written request of the Trustee or the Majority of Bondholders and with reasonable notice to the Borrower, permit the Trustee or such Holders, by its or their officers, employees, consultants,

attorneys and other authorized representatives, to inspect the books of account, records, reports and other papers of the Borrower, other than records which are confidential patient records under applicable State or federal law, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection, and the Borrower will furnish to the Trustee any and all such other information as the Trustee may reasonably request with respect to the performance by the Borrower of its covenants in this Loan Agreement.

(b) The Borrower covenants that it will keep proper books of record and account in which full, true and correct entries shall be made of all dealings or transactions of or in relation to the business and affairs of the Borrower in accordance with GAAP, and will furnish **[the following]** to the Original Purchasers, and, upon request **[or without request pursuant to the Continuing Disclosure Agreement]** to the Trustee **[(provided that item (ii) below shall be provided to the Trustee without a written request)]** or to any Holder or Beneficial Owner of \$500,000 or more in principal amount of Outstanding Bonds **[the financial statements, Borrower Certificate substantially in the form attached hereto as EXHIBIT A, annual budget, and progress and occupancy reports required by the Continuing Disclosure Agreement, by the times required therein]:**

(i) **[Consider deleting and cross-referencing CDA:** By no later than **[one hundred fifty (150) days]** after the close of each Fiscal Year during the term of this Loan Agreement, commencing with the Fiscal Year ending September 30, 20____, a copy of financial statements of the Borrower (or the consolidated financial statements of Sole Member, if applicable) for the preceding Fiscal Year, containing balance sheets as of the end of Borrower's Fiscal Year and a statement of operations and changes in net assets for the Borrower's Fiscal Year then ended, audited by a certified public accountant.

(ii) By no later than **[one hundred fifty (150) days]** after the last day of each Fiscal Year during the term of this Loan Agreement, commencing with the Fiscal Year ending September 30, 20____, a Borrower Certificate stating whether or not, after such review as is appropriate, the Borrower has made a review of its activities during the preceding Fiscal Year for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of this Loan Agreement and that the Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition of this Loan Agreement on its part to be performed and is not in default in the performance or observance of any of the terms, covenants, provisions, or conditions hereof, or if the Borrower shall be in default such Borrower Certificate shall specify all such defaults and the nature thereof. **[Such Borrower Certificate shall be substantially in the form attached hereto as EXHIBIT A and shall specifically state whether the Borrower has complied with the Cash on Hand requirement set forth in Section 7.9(b) hereof and whether the Borrower has maintained the Net Revenues Available for Debt Service requirement as set forth in Section 7.9(d) hereof.]****[CAN THIS INSTEAD BE WHAT IS PROVIDED IN THE CDA?]**

(iii) **[By no later than thirty (30) days prior to the commencement of each Fiscal Year during the term of this Loan Agreement, commencing October 1, 20____, the annual budget for the Project.]**

(iv) **[By no later than forty-five (45) days after the last day of each quarter of the Fiscal Year, commencing _____, 20____, unaudited interim financial statements prepared by or on behalf of the Borrower, consisting of at least balance sheets as of the end of such quarter and statements of unrestricted activities for such quarter and year to date, each prepared in accordance with GAAP].**

(v) **[On or before the last day of every month while the Project is under construction, commencing _____, 20____, construction progress reports in accordance with the Continuing Disclosure Agreement.**

(vi) **On or before the last day of every month beginning at the end of construction of the Project until ninety percent (90%) occupancy of the Project is complete and then quarterly thereafter, occupancy reports.]**

Section 7.11. Tax Covenants. In order to ensure that the interest on the Tax-Exempt Bonds shall at all times be free from federal income taxation, the Borrower specifically represents, warrants and covenants with the Issuer, the Trustee and all Holders of the Tax-Exempt Bonds:

(a) It will fulfill all conditions specified in Sections 103 and 141 through 150 of the Code and applicable Treasury Regulations as necessary to maintain the tax-exempt status of the interest borne by the Tax-Exempt Bonds.

(b) As long as the Tax-Exempt Bonds are Outstanding, the Project will be owned by a Tax-Exempt Organization or a limited liability company whose sole member is a Tax-Exempt Organization.

(c) Not more than **[three percent (3%)]** of the net proceeds of the Tax-Exempt Bonds will be used either (i) by a Tax-Exempt Organization in an activity that constitutes an unrelated trade or business; or (ii) in a trade or business by a Person other than a Tax-Exempt Organization.

(d) Not more than two percent (2%) of the proceeds of the Series 2025A Bonds will be applied to the payment of Costs of Issuance of the Series 2025A Bonds, and all Costs of Issuance in excess of that amount will be paid from proceeds of the Series 2025A-T Bonds or by the Borrower from funds other than proceeds of the Series 2025A Bonds. No proceeds of the Series 2025A Bonds or Series 2025A-T Bonds will be used to pay the costs of issuance of the Series 2025B Bonds, and no proceeds of the Series 2025B Bonds will be used to pay the Costs of Issuance of the Series 2025A or Series 2025A-T Bonds.

(e) The Tax-Exempt Bonds are not and will not become federally guaranteed. For purposes of this Loan Agreement “federally guaranteed” does not mean or refer to any investment of the proceeds of the Tax-Exempt Bonds (i) during the initial three (3) year temporary period until the proceeds are needed for the Project; (ii) during the thirteen (13) month temporary period applicable to bona fide debt service fund investments, if any; (iii) as part of a reserve which meets the requirements of a reasonably required reserve or replacement fund; (iv) in obligations issued by the United States Department of the Treasury; or (v) in any other investments permitted by the Code and Treasury Regulations. The foregoing does not apply to any guaranty by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association.

(f) No portion of the proceeds of the Tax-Exempt Bonds will be used to provide any of the following facilities or any facilities related or incidental thereto: any airplane, skybox or other private luxury box, facility used primarily for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(g) As of the Closing Date of the Series 2025A Bonds and the Series 2025B Bonds, the Borrower and the Sole Member are the only “principal users” of the Project, and the Borrower will not permit any other Person to become a “principal user” of the Project if such action would cause the interest

on the Tax-Exempt Bonds to become subject to federal income taxation in the hands of the Beneficial Owners thereof.

(h) The weighted average maturity of the Series 2025A Bonds and the Series 2025B Bonds will not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the Project financed with the proceeds of the Series 2025A Bonds and Series 2025B Bonds.

(i) Except for the Series 2025B Bonds, no tax-exempt obligations have been or will be issued that are being sold at substantially the same time as the Series 2025A Bonds, pursuant to the same plan of financing and that are reasonably expected to be paid from substantially the same source of funds as the Series 2025A Bonds. The Series 2025A-T Bonds are taxable obligations.

(j) The Borrower will provide the Issuer all information requested to satisfy the informational requirements set forth in Section 149(e) of the Code, including the information necessary to complete Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, or a successor form ("Form 8038"), of the Internal Revenue Service for the Series 2025A Bonds.

(k) The Borrower will not use the proceeds of the Tax-Exempt Bonds in such a manner as to cause the Tax-Exempt Bonds to be Arbitrage Bonds. To this end, the Borrower shall comply with the provisions of a Borrower Tax Certificate executed by the Borrower in connection with the issuance of any series of Tax-Exempt Bonds.

(l) The Borrower reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Series 2025A Bonds will be used for the Project which will carry out the governmental purpose of the issue within three (3) years of the date the Series 2025A Bonds are issued. Not more than fifty percent (50%) of the proceeds of the Series 2025A Bonds will be invested in investments that are not acquired in order to carry out the governmental purpose of the Series 2025A Bonds and have a substantially guaranteed yield for four (4) years or more.

(m) The Borrower will comply with and fulfill all other requirements and conditions of the Code and Treasury Regulations and rulings issued pursuant thereto relating to the Project to the end that interest on the Tax-Exempt Bonds shall at all times be free from federal income taxation.

(n) Neither the Borrower nor any person under common management and control with the Borrower, will, pursuant to an arrangement, formal or informal, purchase obligations of the Issuer in an amount related to the principal amount of the Series 2025A Bonds.

(o) Other than the Management Agreement, the Borrower will not enter into any agreement for management of the Project unless the Trustee receives an opinion of Bond Counsel to the effect that such agreement does not cause interest on any Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

(p) The Borrower will comply with and observe the provisions and requirements of the Borrower Tax Certificate.

(q) The Borrower has provided, or caused to be provided, to Bond Counsel all documents, instruments and other written material requested by Bond Counsel to enable Bond Counsel to render its opinion with respect to the tax-exempt status of interest on the Series 2025A Bonds. In addition, such documentation provided to Bond Counsel did not and does not contain any untrue statement of a material fact and did not and does not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided,

not misleading with respect to any matter relied upon by Bond Counsel in rendering such opinion, and the Borrower is not aware of any other material information which Bond Counsel has not requested and has not been submitted to Bond Counsel.

(r) The Borrower shall immediately remit to the Trustee, at such time as required by the Trustee for deposit into the Rebate Fund, any amount required to be rebated to the Internal Revenue Service pursuant to the provisions of Section 148 of the Code and this Loan Agreement

It is expressly understood and agreed that the Issuer has made no investigation, other than the representations made in Section 2.1(a) and (b) hereof, makes no representation, express or implied, and assumes and shall have no responsibility with respect to whether the interest on any series of Tax-Exempt Bonds is or may remain tax exempt or otherwise excludable from gross income for any income tax purposes, and it is further expressly agreed and understood that the Issuer shall have no obligation to make any investigation respecting such tax exemption or to monitor compliance by the Borrower with any of its “tax” or other covenants herein, or to determine whether the Borrower or any other person has taken such actions (or refrained from acting, as the case may be) as may be necessary to preserve any such tax exemption; provided, however, that the Issuer does acknowledge that under present administrative requirements of the Internal Revenue Service, the Issuer, in connection with the issuance of any series of Tax-Exempt Bonds, is required to execute a Form 8038 (and, if applicable respecting future arbitrage rebate, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, Form 8038-T, or a successor form, of the Internal Revenue Service), and/or such additional forms as may supplement or replace the same, if any, and the Issuer does agree to execute said forms upon request from the Borrower, accompanied by said completed forms; provided that the Issuer shall have no responsibility to complete or file said forms or to investigate the accuracy of the information provided therein, as submitted to the Issuer by or on behalf of the Borrower.

Section 7.12. **Transactions with Affiliates.** Fund or property transfers from the Borrower to an Affiliate, the Issuer or holders of Indebtedness subordinate to the Bonds (other than operating expenses incurred in the ordinary course of business, transfers for fair market value and regularly scheduled payments on Indebtedness) are not restricted so long as (a) the covenants in Section 7.9 hereof were met in the prior Audited Fiscal Year (this requirement shall not be reduced, qualified or deemed satisfied by any of the provisions contained in Section 7.9 hereof, including any reduction in the Net Revenues Available for Debt Service required to be maintained by future State or federal laws or regulations, nor shall the covenant be deemed satisfied by the retention of an Management Consultant); and (b) no Event of Default has occurred hereunder.]

Section 7.13. **Continuing Disclosure.** The Borrower covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provisions of this Loan Agreement, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Trustee may (and, at the request of any Holders of at least twenty-five percent (25%) in aggregate principal amount in Outstanding Bonds, shall, subject to Section 8.03(E) of the Indenture) take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower to comply with its obligations under this Section 7.13.

Section 7.14. **Notice to Trustee.** The Borrower shall notify the Trustee, in writing, of any change in the Borrower’s Fiscal Year.

Section 7.15. **Subordination of Management Fees.** Management Fees shall be subordinate to all payments of principal if, and interest on, the Bonds, all Loan Repayments, Additional Payments and any other amounts payable hereunder, in accordance with Section 4.2 hereof.

ARTICLE VIII

PREPAYMENT

Section 8.1. Prepayments and Credits.

(a) There is reserved to the Borrower the right, and the Borrower is authorized and permitted, at any time and as often as it may choose, to prepay all or any part of the Loan Repayments, and the Issuer agrees that the Trustee may accept such prepayments of Loan Repayments when tendered by the Borrower. The Trustee shall credit such prepayments to the Optional Redemption Fund or if so requested by the Borrower, a subaccount therein. In case the Borrower intends to effect any redemption of Bonds of any series at the election of the Borrower, the Borrower shall, within the time period specified in the Indenture, notify the Trustee of its intent to effect such redemption and, if such redemption shall apply to less than all of the Outstanding Bonds, of the principal amount of Outstanding Bonds of any series to be redeemed. All Loan Repayments and other sums prepaid pursuant to this Section 8.1 shall, if requested by the Borrower, be applied to the redemption of Outstanding Bonds in the manner and to the extent provided in Article XII of the Indenture and, as to Series 2025A Bonds and Series 2025A-T Bonds, in Section 3.03 of the Indenture.

(b) The Borrower may, at its option, reduce the amount of any Loan Repayment required with respect to the principal amount of Bonds of any series by an amount equal to the principal amount of Outstanding Bonds of that series maturing or otherwise payable on the next succeeding Principal Payment Date that shall be surrendered uncanceled by the Borrower to the Trustee not less than forty-five (45) days before the appropriate Principal Payment Date, provided that before or simultaneously with any such surrender a Borrower Certificate shall be delivered to the Trustee stating the Borrower's election to use such Bonds for such purpose.

(c) If Term Bonds are redeemed at the option of the Borrower, the Term Bonds so optionally redeemed may, at the option of the Borrower, be applied as a credit against any subsequent Loan Repayment required for payment of such Term Bonds, provided that (i) the Borrower shall have delivered to the Trustee a Borrower Certificate stating its election to apply such Term Bonds as such a credit and specifying the year in which such credit shall apply; and (ii) the Borrower may not take such credit less than forty-five (45) days before the appropriate Sinking Fund Payment Date.

Section 8.2. Borrower's Option to Direct Redemption of Bonds.

(a) The Borrower shall have the option to direct the Issuer to call for redemption any or all Bonds then Outstanding in accordance with the provisions of Section 3.05 of the Indenture.

(b) To exercise its option under this Section 8.2, (i) if redemption is pursuant to Section 3.05(B) of the Indenture, the Borrower must, within one hundred eighty (180) days following the event which is the basis of the option, give the Issuer and Trustee written notice of its exercise of such option; or (ii) if redemption is pursuant to Section 3.05(A) of the Indenture, such notice shall be given as provided in Section 12.02 of the Indenture, subject to conditions as described in Section 12.05 of the Indenture; and (iii) subject to Section 12.05 of the Indenture, on or prior to such Redemption Date, the Borrower shall deposit with the Trustee the sum (which may be transferred from the Trust Funds established under the Indenture) necessary in order to redeem the Outstanding Bonds at their principal amount plus accrued interest, as described in Section 12.06 of the Indenture.

Section 8.3. Redemption of Bonds. If the Borrower is not in default hereunder, the Issuer, at the request of the Borrower, shall forthwith take all steps, if any, that may be necessary under the applicable provisions of the Indenture to effect redemption of all or part of the then Outstanding Bonds, as may be specified by the Borrower, on the Redemption Date specified by the Borrower.

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ARTICLE IX

EVENTS OF DEFAULT; REMEDIES

Section 9.1. Events of Default. The following shall be “Events of Default” under this Loan Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

(a) default in the payment of any installment of the Loan Repayments when such installment becomes due and payable, or default in the payment of any amounts due pursuant to Section 4.3(b) hereof, and continuance of such default for a period of five (5) days; provided, however, that a default in payment of any Loan Repayment described in Section 4.2(a) hereof shall not be an Event of Default if, pursuant to Section 5.06 of the Indenture, the Trustee transfers money from the Optional Redemption Fund, the Working Capital Fund, a draw from the Senior Limited Guaranty, and [the accounts of] the Debt Service Reserve Fund to [the accounts of] the Debt Service Fund in an amount equal to the amount in default;

(b) subject to the provisions of Sections 5.9, 7.9, and 9.12 hereof, default in the performance or breach of any covenant, warranty or representation of the Borrower in this Loan Agreement (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 9.1 specifically dealt with), the Mortgage, or any Collateral Document, and continuance of such default or breach for a period of thirty (30) days after there has been given, by registered or certified mail, to the Borrower by the Issuer, the Trustee or the Majority of Bondholders, a written notice, stating it is a “Notice of Default,” specifying such default or breach and requiring it to be remedied; provided, however, that if the Borrower shall fail to cure such default which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be extended; provided that the Trustee has received a Borrower Certificate specifying the date necessary to enable the Borrower to begin and complete such cure through the exercise of due diligence, including a certification of the Borrower that it has begun and will diligently prosecute applicable remedies;

(c) the abandonment by the Borrower of the Project or any substantial part thereof, or the operations thereof as herein contemplated, and the continuation thereof for a period of five (5) days after there has been given, by registered or certified mail, written notice to the Borrower by the Issuer, the Trustee, or the Majority of Bondholders;

(d) the entry of a decree or order by a court having jurisdiction in the premises adjudging the Borrower bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under the Federal Bankruptcy Act or any other applicable federal or State law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Borrower in furtherance of any such action;

(e) any final judgments, or writs or warrants of attachment or of any similar processes in an aggregate amount in excess of the greater of \$250,000 or two and one-half percent (2.5%) of the insured value of the Project entered or filed against the Borrower or against any of its property and remaining unvacated, unpaid, unbonded, uninsured or unstayed for a period of thirty (30) days;

- (f) any representation by the Borrower herein is false or misleading in any material respect;
- (g) the Sole Member does not make a payment as required by the terms of the Limited Guaranty; or
- (h) any default with respect to Long-Term Indebtedness secured on a parity with the Bonds, as more fully described in Section 6.3 hereof; and

provided, however, that if after any default shall have occurred which does not result in a nonpayment of principal, premium, if any, or interest on the Bonds, and prior to the Trustee exercising any of the remedies provided in Section 9.2(a) through (d) below, the Borrower shall have completely cured such default by depositing with the Trustee sufficient moneys or by performing such other acts or things in respect of which it may have been in default under this Loan Agreement, as the Trustee shall determine, then in every such case such default shall be waived, rescinded and annulled by the Trustee by written notice given to the Borrower; but no such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

In addition, if the acceleration of the maturity of the Bonds and its consequences shall have been annulled and rescinded pursuant to, and in accordance with the provisions of, Section 7.02 of the Indenture, the acceleration of all Loan Repayments, Additional Payments and any other amounts payable hereunder shall likewise be automatically annulled and rescinded, but no such annulment or rescission shall affect any subsequent default or impair any right or remedy consequent thereon.

Section 9.2. Remedies. If any Event of Default shall occur and be continuing, the Trustee may, or if requested in writing by a Majority of Bondholders shall, subject to Section 8.03(E) of the Indenture (other than with respect to subsections (a) and (e) below), exercise one (1) or more of the following remedies:

- (a) declare all Loan Repayments, Additional Payments and any other amounts payable hereunder to be immediately due and payable (being an amount equal to that necessary to pay in full the principal of and interest accrued on all Bonds then Outstanding, assuming acceleration of the Bonds under the Indenture, and to pay all other amounts payable hereunder and thereunder), whereupon the same shall become immediately due and payable by the Borrower;
- (b) exercise any one or more of the remedies specified in Section 2.3 of the Mortgage or in any Collateral Document;
- (c) petition a court of competent jurisdiction for the appointment of a receiver to take possession of and manage and operate the Project for the benefit of the Holders;
- (d) take whatever action at law or in equity may appear necessary or appropriate to collect the Loan Repayments and other amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement; or
- (e) draw under the Limited Guaranty.

In case of any foreclosure or deed in lieu of foreclosure of the Mortgaged Property or any portion thereof, all Loan Repayments, Additional Payments and any other amounts payable hereunder, if not already due pursuant to subsection (a) above, shall automatically become due and payable.

In addition to the foregoing and subject to Section 9.13 hereof, the Issuer shall have the right to take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of the Issuer's Unassigned Rights by the Borrower.

Section 9.3. Manner of Exercise. No remedy herein conferred upon or reserved to the Trustee or Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity, including, among other remedies, injunctions to restrain violations or attempted violations of any provision of this Loan Agreement by the Borrower. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article IX, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 9.4. Right of Entry. If the Trustee exercises a remedy provided for in Section 9.2(b) hereof, pursuant to a foreclosure of the Mortgage, the Trustee may then or at any time thereafter seek the appointment of a court appointed receiver to take possession of the Mortgaged Property or any portion thereof, and the Borrower covenants in any such event peacefully and quietly to yield up and surrender the Mortgaged Property or such portion thereof to the Trustee.

Section 9.5. Right to Lease. If the Trustee elects to lease the Mortgaged Property or any part thereof, it may collect the rents from such lease and apply the same, first, to the payment of the expense of entry and leasing, and second, to the Loan Repayments, Additional Payments and any other amounts payable hereunder. In the event that the proceeds from such lease are not sufficient to pay in full the foregoing, the Borrower shall remain and be liable therefor, and the Borrower promises and agrees to pay the amount of any such deficiency from time to time and the Trustee may at any time and from time to time sue and recover judgment for any such deficiency or deficiencies.

Section 9.6. Collection of Indebtedness by Trustee; Deficiency Judgment.

(a) The Borrower covenants that, if default is made in any payment hereunder, then, upon demand of the Trustee or the Issuer, the Borrower will pay to the Trustee the whole amount then due and payable with interest at the respective rates prescribed in the Bonds on overdue principal, premium, if any, and, to the extent that payment of such interest is legally enforceable, on overdue installments of interest; and, in addition thereto, will pay to the Trustee or Issuer such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Issuer and Trustee, their agents and counsel. If the Borrower fails to pay such amounts forthwith upon such demand, the Issuer or the Trustee, in its own name and as trustee of an express trust, shall be entitled to recover judgment against the Borrower for the whole amount so due and unpaid.

(b) The Issuer or the Trustee shall be entitled, if permitted by law, to recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of this Loan Agreement or the foreclosure of the Mortgage or any Collateral Document, and in case of a sale of the Mortgaged Property, or a portion thereof, or any personal property secured under any Collateral Document, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid.

(c) Any money collected by the Trustee under this Article IX shall be applied as provided in Section 7.04 of the Indenture.

Section 9.7. Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Borrower or the property of the Borrower, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) allowed in such judicial proceeding; and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same.

Section 9.8. Restoration of Positions. If the Trustee or any Bondholder (solely as provided in the Indenture) has instituted any proceeding to enforce any right or remedy under this Loan Agreement, the Indenture, the Mortgage or any Collateral Document, by foreclosure, entry or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or such Bondholder, then and in every such case the Borrower, the Issuer, the Bondholders, and the Trustee shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Issuer, the Bondholders, and the Trustee shall continue as though no such proceeding had been instituted.

Section 9.9. Waiver of Appraisement, Etc., Laws.

(a) To the full extent that it may lawfully so agree, the Borrower will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay or extension law now or hereafter in force, in order to prevent or hinder the enforcement of this Loan Agreement, the Mortgage or any Collateral Document, or the leasing or sale of the Mortgaged Property, or any part thereof, or the sale of the personal property secured under any Collateral Document, or the possession of the Mortgaged Property or any part thereof by any purchaser at any sale; but the Borrower, for itself and all who may claim under it, so far as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws. The Borrower, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the property comprising the Mortgaged Property and any real or personal property secured under any Collateral Document marshalled upon any foreclosure thereof, and agrees that any court having jurisdiction to foreclose the Mortgage and any Collateral Document may order the sale of the Mortgaged Property, or any portion thereof, and any real or personal property secured under any Collateral Document, as an entirety.

(b) If any law in this Section 9.9 referred to and now in force, of which the Borrower or its successor or successors might take advantage despite this Section 9.9, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.9.

Section 9.10. Suits to Protect the Security. The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property or any portion thereof by any acts which may be unlawful or in violation of this Loan Agreement, and such suits and proceedings as the Trustee may deem expedient to protect its interests in the Mortgaged Property or any portion thereof, including power to institute and maintain proceedings to

restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair the security or be prejudicial to the interests of the Bondholders or the Trustee.

Section 9.11. Agreement to Pay Attorneys' Fees and Expenses. If the Borrower defaults under any provision of this Loan Agreement and the Trustee or the Issuer employs attorneys or incurs other expenses for the collection of Loan Repayments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it will on demand therefor pay to the Trustee or the Issuer the reasonable fees of such attorneys and such other expenses so incurred by the Trustee or the Issuer; and as security for the performance of the obligations of the Borrower under this Section 9.11 the Trustee shall have a lien prior to the Bonds upon all property and funds held or collected by the Trustee as such, except funds or investments held in trust for the benefit of the Holders of particular Bonds and funds on deposit in the Rebate Fund.

Section 9.12. Effect of Force Majeure. If by reason of force majeure the Borrower is unable in whole or in part to carry out the agreements on its part contained in this Loan Agreement, other than the obligations of the Borrower contained in Section 4.2, 4.3, 5.2(d) and (e), 7.4, 7.5, 7.6, or 7.11 hereof, the Borrower shall not be deemed in breach or violation of any provision of this Loan Agreement or in default during the continuance of such inability. The term "force majeure" as used herein means acts of nature; strikes or other similar disturbances; acts of public enemies; rules and regulations promulgated by state or federal agencies; explosions, breakage or accident to machinery, transmission pipes or canals; landslides, floods, earthquakes, windstorms, fires and explosions; or partial or entire failure of utilities. The Borrower agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreements; provided, however, that the settlement of strikes and other similar disturbances shall be within the reasonable discretion of the Borrower, and the Borrower shall not be required to make settlement of strikes and other similar disturbances by acceding to the demands of the opposing party or parties when such course is in the reasonable judgment of the Borrower not in the best interests of the Borrower.

Section 9.13. Issuer's Enforcement Rights. Notwithstanding any provision herein to the contrary:

(a) only the Issuer has the right to extend the thirty (30) day cure period under Section 9.1(b) hereof with respect to any Make Whole Payments;

(b) only the Issuer has the right to waive an Event of Default with respect to any of the Issuer's Unassigned Rights or any due but unpaid Make Whole Payment; and for that purpose the provisions of Section 9.2 hereof apply as if the Issuer were the Trustee; and

(c) the Issuer has the right, without the consent of the Trustee, to take whatever action at law or in equity as may appear necessary or appropriate to collect Make Whole Payments then due or thereafter due, provided that in no event may the Issuer, without the consent of the Trustee, exercise the remedies in Section 9.2(a), (b) or (e) hereof.

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ARTICLE X

ASSIGNMENTS, LEASES AND OPERATING ARRANGEMENTS BY THE BORROWER

Section 10.1. No Assignments by Borrower Except as Permitted. Except as otherwise provided in this Article X or in Section 7.4 hereof, the Borrower shall not, without the prior written consent of the Trustee, assign its rights or interests under this Loan Agreement.

Section 10.2. Leases and Operating Contracts. [The Borrower may lease any part of the Project, or contract for the performance by others of operations or services on or in connection with the Project, or any part thereof, for any lawful purpose, provided that except for leases in the ordinary course of business (including, without limitation, leases with residents of the Project) (a) no such lease or contract shall be inconsistent with the provisions of this Loan Agreement or the Indenture; (b) the Borrower shall remain fully obligated and responsible under this Loan Agreement to the same extent as if such lease or contract had not been executed; (c) no assignee or lessee shall be allowed to utilize a substantial portion of the Project primarily for an activity which would not itself qualify as furthering the Borrower's or Sole Member's exempt purposes; (d) in each case the Borrower shall determine that the lessee or assignee has sufficient financial responsibility and technical competence to render services necessary for the operation of senior independent living, assisted living and memory care facilities; and (e) no assignment shall be for security purposes unless such assignment constitutes a Permitted Encumbrance. In addition, except for leases in the ordinary course of business or leases with Sole Member or the Borrower, each such lease or contract shall be expressly conditioned upon, and shall by its terms not be effective until, an opinion of Bond Counsel shall be given to the Borrower and the Trustee to the effect that the exemption from federal income tax of the interest on the Tax-Exempt Bonds shall not be adversely affected by such lease or contract. Whenever any Event of Default shall have happened and for so long as it shall be subsisting, the Trustee may, by writing addressed to the Borrower and to any assignee, lessee or sublessee known to the Trustee, direct that future rents or other moneys due the Borrower pursuant to any such lease or assignment (other than leases with the Project's tenants) be paid directly to the Trustee for deposit in **[the accounts of]** the Debt Service Fund, and any lease or assignment shall contain a provision recognizing the rights of the Trustee in this regard. Any sums received by the Trustee pursuant hereto shall be credited against the Loan Repayments otherwise due from the Borrower.]

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ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given in the manner and to the addresses specified in Section 14.04 of the Indenture, which is incorporated herein by reference.

Section 11.2. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Borrower and their respective successors and permitted assigns. Nothing in this Loan Agreement, express or implied, shall give to any Person, other than the parties hereto, and their respective successors and permitted assigns hereunder, the Trustee and the Holders of Bonds, any benefit or other legal or equitable right, remedy or claim under this Loan Agreement.

Section 11.3. Severability. If any provision of this Loan Agreement shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, and the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.4. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 11.5. Amendments, Changes and Modifications. Except as otherwise provided in the Indenture, subsequent to the issuance of the Series 2025A Bonds and Series 2025A-T Bonds and before the Indenture is satisfied and discharged in accordance with its terms, neither this Loan Agreement or the Mortgage may be effectively amended, changed, modified, altered or terminated nor may any provision be waived hereunder except in accordance with the provisions of Article IX of the Indenture.

Section 11.6. Execution Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7. Construction. This Loan Agreement shall be construed in accordance with the laws of the State.

Section 11.8. Limitation on Issuer Liability. It is understood and agreed by the Borrower and the Holders that no covenant, provision or agreement of the Issuer herein or in the Bonds or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Bonds, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to this Loan Agreement and the application of revenues therefrom and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement therein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from this Loan Agreement or revenues therefrom, the Collateral Documents or proceeds of the Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to this Loan Agreement and the application of revenues hereunder as hereinabove provided. The Bonds constitute special, limited obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to this

Loan Agreement and the Indenture, and do not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, the State or any political subdivision thereof or a charge against the Issuer's general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Holders that the Issuer shall incur no pecuniary liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment for the Bonds. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

Section 11.9. Form of Documents Delivered to Issuer or Trustee. The forms of all documents required to be delivered to the Issuer or the Trustee under this Loan Agreement or the Indenture shall comply with the requirements of Article XIV of the Indenture.

Section 11.10. Term of Loan Agreement. Except as otherwise provided herein, this Loan Agreement shall remain in full force and effect from the date of execution of this Loan Agreement until such time as the Indenture has been discharged in accordance with its terms.

Section 11.11. Electronic Signatures.

(a) The parties agree that the electronic signature of a party to this Loan Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Loan Agreement. The parties agree that any electronically signed document (including this Loan Agreement) shall be deemed (i) to be "written" or "in writing"; (ii) to have been signed; and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

(b) For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; (ii) "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature; (iii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a pdf or other replicating image attached to an e-mail message; and (iv) "pdf" means portable document format.

Section 11.12. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid

counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date and year first written above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the Borrower to this Loan Agreement dated as of the date and year first written above.

COUNTRY MANOR CAMPUS BRAINERD LLC

By _____
Its _____

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

Dated _____, 20____

The undersigned, a principal financial officer of Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, hereby certifies as follows to U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”), as trustee under the Indenture of Trust, dated as of April 1, 2025 (the “Indenture”), between the City of Brainerd, Minnesota (the “Issuer”) and the Trustee, with reference to the requirement of Section 7.10(b)(ii) of the Loan Agreement, dated as of April 1, 2025 (the “Loan Agreement”), between the Issuer and the Borrower:

1. The undersigned has made a review of all activities of the Borrower during the preceding Fiscal Year of the Borrower ended September 30, 20__, for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of this Loan Agreement.

2. To the undersigned’s knowledge, the Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition in this Loan Agreement including, without limitation, the Cash on Hand requirement set forth in Section 7.9(b) of the Loan Agreement and the Net Revenues Available for Debt Service Requirement set forth in Sections 7.9(a) and (d) of the Loan Agreement on its part to be performed and no Event of Default has occurred.

3. The undersigned certifies that the following calculations are true and correct based on Borrower’s audited Financial Statements:

(a) Net Revenues Available For Debt Service

Calculation:

Sum of:

(a)	Gross Revenues	_____
(b)	Less: Project Operating Expenses including Management Fees paid to Sole Member (b)-((c)+(d)+(e))	_____
(c)	Less: Extraordinary Gains and Losses	_____
(d)	Less: Unrealized Gains and Losses on Investments	_____
(e)	Less: Losses on Unamortized Discount and Financing Expenses (to the extent included in Project Operating Expenses)	_____
(f)	(b)-((c)+(d)+(e)) =	_____
(g)	Plus: Depreciation, Amortization and Interest Expense	_____
(h)	Plus: Other Non-operating Income and Contributions Available for Debt Service	_____

(i) Total (a) - (f) + (g) + (h) = _____

Divided by:

(j) Principal and Interest Requirements on Long-Term
Indebtedness excluding Subordinate Indebtedness

Total (i) / (j) =

Debt Service Coverage Ratio:

_____ to 1.00

Covenant Requirement:

1.20 to 1.00

Compliance? (circle one):

YES NO

(b) Days Cash on Hand

Calculation:

Sum of Unrestricted and Unencumbered:

(a) Cash

(b) Plus: Marketable Securities

Total

Divided by the quotient of:

(x) Project Operating Expenses excluding depreciation and
amortization, and any other non-cash expense and
including Management Fees paid to Sole Member

(y) Divided by 365

Covenant Requirement:

___ days

Compliance? (circle one):

YES NO

Any capitalized terms used herein that are otherwise not defined shall have the meanings assigned to them in the Indenture or this Loan Agreement.

All amounts and calculations set forth herein are accurate and complete in all respects and are made in accordance with this Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed and delivered this Compliance Certificate on the date and year set forth above.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____

Name: _____

Title: _____

Third Draft
March 12, 2025

BOND PURCHASE AGREEMENT

BY AND BETWEEN

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

**COUNTRY MANOR CAMPUS BRAINERD LLC,
as Company**

**THE FOUNDATION FOR HEALTH CARE CONTINUUMS,
as Senior Limited Guarantor**

AND

**COLLIERS SECURITIES LLC,
as Underwriter**

Dated April __, 2025

**\$ _____
City of Brainerd, Minnesota
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A**

**\$ _____
City of Brainerd, Minnesota
Taxable Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A-T**

This instrument drafted by:
Ballard Spahr LLP (BWJ)
2000 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

\$ _____
City of Brainerd, Minnesota
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A

\$ _____
City of Brainerd, Minnesota
Taxable Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A-T

BOND PURCHASE AGREEMENT

April __, 2025

Country Manor Campus Brainerd LLC
c/o The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377

City of Brainerd, Minnesota
501 Laurel Street,
Brainerd, MN 56401

The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377

Ladies and Gentlemen:

The undersigned, Colliers Securities LLC (the “Underwriter”), hereby offers to enter into this Bond Purchase Agreement (the “Purchase Agreement”) with the City of Brainerd, Minnesota (the “Issuer”), as approved and agreed to by Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Company”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation (“FHCC” or “Senior Limited Guarantor”), and FHCC, for the purchase by the Underwriter of the Issuer’s (i) Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A (the “Series 2025A Bonds”), and (ii) Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the “Series 2025A-T Bonds,” and together with the Series 2025A Bonds, the “Senior Bonds”). This offer is made subject to acceptance by the Issuer and agreement by the Company and FHCC at or prior to 10:00 A.M. Central time on April __, 2025, and upon such acceptance this Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, the Company, FHCC, and the Underwriter. If not so accepted, this Purchase Agreement will be subject to withdrawal by the Underwriter upon notice delivered by the Underwriter to the Issuer, the Company and FHCC at any time prior to the acceptance hereof by the Issuer, the Company and FHCC.

1. **Purchase and Sale.** Subject to the satisfaction by the Issuer, the Company, and FHCC of the terms and conditions set forth in this Purchase Agreement, subject also to the conditions precedent set forth in this Purchase Agreement, and in reliance upon the representations in this Purchase Agreement set forth or incorporated by reference, the Underwriter hereby agrees to purchase from the Issuer, upon the terms and conditions set forth in this Purchase Agreement, and the Issuer hereby agrees to sell the Senior Bonds to the Underwriter. The Senior Bonds shall be as described in the Official Statement (as defined below) and Schedule I attached to this Purchase Agreement. The purchase price paid by the Underwriter for the Series 2025A Bonds is \$_____ which amount represents the principal amount of the Series 2025A Bonds (\$_____), [plus/less] [net] original issue [premium/discount] of \$_____, less the Underwriter’s discount of \$_____. The Underwriter has agreed to purchase the Series 2025A-T Bonds for a purchase price of \$_____, which amount represents the principal amount of the Series 2025A-T Bonds

(\$ _____), [plus/less] [net] original issue [premium/discount] of \$ _____, less the Underwriter's discount of \$ _____.

The Issuer is authorized to issue the Senior Bonds pursuant to: (i) Minnesota Statutes, Chapter 462C and Minnesota Statutes, Section 469.152 through 469.1655, as amended (together, the "Act"), (ii) resolutions of the City Council of the Issuer, and (iii) the Indenture of Trust, dated as of April 1, 2025 (the "Senior Indenture"), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). The Issuer will loan proceeds of the Senior Bonds to the Company pursuant to a Loan Agreement, dated as of April 1, 2025 (the "Senior Loan Agreement"), between the Issuer and the Company, to be used, along with the proceeds of the Issuer's Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B (the "Subordinate Bonds"), and funds of the Company to finance the Project. Capitalized terms used but not defined in this Purchase Agreement shall have the meaning given to them in the Preliminary Official Statement of the Company relating to the Senior Bonds, dated [____], 2024 (the "Preliminary Official Statement").

The Senior Bonds are payable from and secured by (i) a pledge of payments to be received by the Issuer pursuant to the Senior Loan Agreement; (ii) certain funds held under the Senior Indenture; (iii) a Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the "Mortgage"), from the Company to the Trustee, and (iv) a Limited Guaranty Agreement, dated as of April 1, 2025 (the "Senior Limited Guaranty"), between the Senior Limited Guarantor and the Trustee. This Purchase Agreement and the following documents: (i) the Senior Loan Agreement; (ii) the Mortgage; (iii) the Continuing Disclosure Agreement, dated as of April 1, 2025 (the "Senior Disclosure Agreement"), between the Company and U.S. Bank Trust Company, National Association, as dissemination agent; (iv) the Assignment and Subordination of Management Agreement, dated as of April 1, 2025 (the "Assignment of Management Agreement"), by the Company and consented to by Continuums Management Services LLC, as manager; (v) the Assignment and Pledge Agreement, dated as of April 1, 2025, by the Company in favor of the Trustee[, and consented to by the City]; (vi) the Collateral Assignment of Architect's Contract, dated as of April 1, 2025, by the Company in favor of the Trustee, and consented to by the Architect; (vii) the Collateral Assignment of Design-Build Contract, dated as of April 1, 2025, by the Company in favor of the Trustee, and consented to by the Contractor; (viii) the Disbursing Agreement, dated as of April 1, 2025, between the Company, the Trustee, and Guaranty Commercial Title, Inc., as the title company; (ix) the Bank Qualified Fee Agreement, dated as of April 1, 2025, between the Company and the Issuer; and (x) the other documents to which the Company is a party are hereinafter referred to as the "Senior Documents."

It is understood and agreed that the Senior Bonds and the interest thereon are special, limited obligations of the Issuer payable solely from (i) revenues provided by the Company or amounts paid pursuant to the Senior Indenture or Mortgage (including the Senior Limited Guaranty), and (ii) amounts held in various funds and accounts as provided in the Senior Indenture. The Senior Bonds shall never constitute a general indebtedness of the Issuer within the meaning of any state constitutional or statutory provision and do not give rise to a general or moral obligation of the Issuer, the State of Minnesota (the "State"), or any of its political subdivisions, and do not constitute a charge against the Issuer's property, general credit or taxing powers.. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Senior Bonds against any past, present, or future officer, director, counsel, advisor, employee, contractor, consultant, executive director, program manager, or agent of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, counsel, advisors, employees, contractors, consultants, executive directors, program managers, or agents, as such, has been expressly waived and released as a condition of any consideration for the execution and issuance of the Senior Bonds.

The Issuer and the Company acknowledge and agree that (i) the purchase and sale of the Senior Bonds pursuant to this Purchase Agreement is an arm's-length commercial transaction between the Issuer, the Company, FHCC, and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the Issuer, the Company, or FHCC, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the Issuer, the Company, or FHCC with respect to (x) the offering of the Senior Bonds or the process leading thereto or (y) any other obligation to the Issuer, the Company, or FHCC except the obligations expressly set forth in this Purchase Agreement, and (iv) the Issuer, the Company, and FHCC have consulted with their own legal and other professional advisors to the extent they each deemed appropriate in connection with the offering of the Senior Bonds.

The Company, FHCC, and the Issuer acknowledge that the Underwriter, without regard to priority, may allocate the Senior Bonds between customer orders and orders that could be considered to be from "related accounts" for purposes of MSRB Rule G-11. The Issuer and the Company hereby agree to the Underwriter's allocation of the Senior Bonds to the orders that the Underwriter received during the order period for the Senior Bonds, regardless of priority between customer accounts and those accounts that could be considered "related accounts."

2. Official Statement.

(a) The Company shall deliver or cause to be delivered to us, promptly upon the completion thereof, copies of the Official Statement of the Company relating to the Senior Bonds, dated as of the date hereof (the "Official Statement"). In connection with the offering and sale of the Senior Bonds, the Company and FHCC authorize the use by the Underwriter of copies of the Official Statement with respect to the Senior Bonds, together with copies of the Resolution (as hereinafter defined), the Senior Indenture, and the other documents described therein. The Company and FHCC hereby ratify and consent to the use by the Underwriter of the Preliminary Official Statement and the Official Statement in connection with the offer and sale of the Senior Bonds.

(b) The Company, pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") under the Securities Exchange Act of 1934, as amended (the "1934 Act"), agrees to deliver to the Underwriter, at such addresses as the Underwriter shall specify, as many copies of the Official Statement as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board (the "MSRB"). The Company agrees to deliver such Official Statements within seven (7) business days after the execution of this Purchase Agreement.

(c) The Underwriter shall give notice to the Issuer, the Company, FHCC, and any additional "issuer" on the date after which no participating underwriter, as such term is defined in the Rule, remains obligated to deliver Official Statements pursuant to paragraph (b)(4) of the Rule.

(d) The Underwriter agrees from the time the Official Statement becomes available until the earlier of (i) ninety (90) days from the end of the underwriting period or (ii) the time when the Official Statement is available to any person from a nationally recognized municipal securities information repository, but in no case less than twenty-five (25) days following the end of the underwriting period, to send or cause to be sent no later than the next business day, by first class mail or other equally prompt means to any potential customer, on request, at least one copy of the Official Statement, as most recently supplemented or amended.

3. Representations.

(a) The Issuer represents, warrants, and agrees with the Underwriter as follows:

(i) The Issuer has not participated in the preparation of the Preliminary Official Statement or the Official Statement relating to the Senior Bonds and has made no independent investigation with respect to the information contained therein, including any appendices thereto. The statements and information contained in the Preliminary Official Statement (to the extent not modified in the Official Statement) and the Official Statement with respect to the Issuer under the captions “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION – The Issuer” (together, the “Issuer Portion” of the Official Statement) are, and as of the date of Closing (as defined below) will be, true and correct in all material respects, and the Issuer Portion of the Official Statement does not and will not contain any untrue or misleading statement of a material fact relating to the Issuer or omit to state any material fact relating to the Issuer necessary to make the statements therein in light of the circumstances under which they were made, not misleading.

(ii) The Issuer is a home rule charter city and a municipal corporation organized and existing under its City Charter and the laws of State and, based solely upon an opinion of Bond Counsel, the Issuer has full legal right, power and authority pursuant to the Constitution and laws of the State, including the Act, to issue bonds for the purposes stated in the Senior Indenture, to enter into this Purchase Agreement, the Senior Indenture and the Senior Loan Agreement, to pledge the trust estate as defined in the Senior Indenture and as described in the Official Statement, and to loan the proceeds of the Senior Bonds to the Company to be applied to the purposes stated in the Senior Indenture.

(iii) To the actual knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, execution and delivery of this Purchase Agreement does not, and the adoption of the Resolution and the execution and delivery of the Senior Bonds, the Senior Indenture, the Senior Loan Agreement, and compliance with the provisions of each of them, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of the Issuer a breach of or default under any other agreement or instrument to which the Issuer is a party or any existing law, administrative regulation, court order or consent decree to which the Issuer is subject.

(iv) With respect to such matters that are preconditions to the issuance of the Senior Bonds that are identified in the Act and the Senior Indenture, the Issuer has, to its knowledge, based on advice of bond counsel, and at the date of the Closing will have, in all respects complied therewith.

(v) To the actual knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, all approvals, consents and orders of any governmental authority, board, agency, council, commission or other body in or of the Issuer or the State having jurisdiction which would constitute a condition precedent to the performance by the Issuer of its obligations hereunder and under the Senior Indenture and the Senior Bonds, have been obtained or, if not, will be obtained at the time of or prior to the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase of the Senior Bonds by the Underwriter).

(vi) The City Council of the Issuer, on March 17, 2025, duly adopted a resolution (the “Resolution”) authorizing the issuance, execution, delivery and performance of the Senior Bonds, the Senior Indenture, the Senior Loan Agreement, this Purchase Agreement, and the Pledge Agreement.

(vii) To the knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, no litigation is pending or, to the actual knowledge of the Issuer, threatened (A) seeking to restrain or enjoin the issuance or delivery of any of the Senior Bonds or the application of proceeds of the Senior Bonds as provided in the Senior Indenture or the collection of revenues of the Issuer pledged under the Senior Indenture, (B) in any way contesting or affecting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds, the Resolution, the Senior Indenture, the Senior Loan Agreement, or this Purchase Agreement, or (C) in any way contesting the existence or powers of the Issuer.

(viii) The Issuer Portion of the Preliminary Official Statement was, as of its date, and is, as of this date, “final” within the meaning of paragraph (b)(1) of the Rule.

(b) The Company represents, warrants, and agrees with the Underwriter as follows:

(i) The Company approves the distribution and use of the Official Statement. The statements and the information set forth in the Official Statement concerning the Company and its operations, the Project (including estimated sources and uses of funds), and the Company’s participation in the transactions contemplated by the Senior Documents (the “Company Portion”) is true and correct in all material respects, and the information set forth under the heading “RISK FACTORS” is a fair description of the risk factors related to the Project and the Senior Bonds. With respect to the Company Portion and the information set forth under the heading “RISK FACTORS”, the Preliminary Official Statement and the Official Statement do not and will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

(ii) If, at any time prior to the earlier of (A) receipt of notice from the Underwriter pursuant to Section 2(c) hereof that Official Statements are no longer required to be delivered under the Rule or (B) ninety (90) days after the Closing, any event occurs known to the Company (or which should have been known to the Company upon diligent inquiry) as a result of which the Official Statement as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Company shall promptly notify the Underwriter and the Issuer thereof in writing. Upon the request of the Underwriter, the Company shall prepare and deliver to the Underwriter and the Issuer, at the expense of the Company, as many copies of an amendment or supplement to the Official Statement which will correct any untrue statement or omission therein as the Underwriter and the Issuer may reasonably request.

(iii) The Company is duly organized and existing as a nonprofit limited liability company under the laws of the State, whose sole member is the FHCC, and the Company has full legal right, power and authority to enter into the Senior Documents, and to carry out and consummate all transactions contemplated by such documents.

(iv) The execution and delivery of this Purchase Agreement does not, and the execution and delivery of the other Senior Documents and compliance with the provisions of each of them, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of the Company a breach of or default under any other agreement or instrument to which the Company is a party or, to the Company’s knowledge, any existing law, administrative regulation, court order or consent decree to which the Company is subject.

(v) All approvals, consents and orders of any governmental authority, board, agency, council, commission or other body in or of any state and the federal government having jurisdiction which would constitute a condition precedent to the performance by the Company of its obligations hereunder and under the other Senior Documents have been obtained or, if not, are expected to be promptly obtained by the Company for operation of the Project as soon as commercially possible after the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase and sale of the Senior Bonds by the Underwriter).

(vi) This Purchase Agreement does, and the other Senior Documents, when each of them has been executed and delivered by the Company, will, assuming due authorization, execution and delivery by the other parties thereto, each constitute a valid and binding obligation of the Company, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

(vii) The Company will take no action that could cause the interest on the Series 2025A Bonds to be includable in federal or state income.

(viii) No litigation is pending or, to the actual knowledge of the Company, threatened (A) seeking to restrain or enjoin the issuance or delivery of any of the Senior Bonds or the application of proceeds of the Senior Bonds as provided in the Senior Indenture or the collection of revenues of the Company pledged under the Senior Loan Agreement, (B) in any way contesting or affecting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds or Senior Documents, or (C) in any way contesting the existence or powers of the Company.

(ix) The Company has not been, within the last five (5) years, in default as to principal or interest with respect to any obligation issued or guaranteed by the Company or with respect to which the Company is an obligor.

(i) So long as the Senior Bonds are outstanding, the Company will cause FHCC to (i) maintain its status as an organization described in Section 501(c)(3) of the Code and will take no action that would jeopardize such status.

(ii) The Company has not within the last five (5) years been subject to any continuing disclosure undertaking.

(c) FHCC represents, warrants, and agrees with the Underwriter that, as the date hereof and at the date of Closing:

(i) The statements and the information set forth in the Preliminary Official Statement and the Official Statement (including the appendices thereto and to the extent not modified from the information contained in the Preliminary Official Statement) concerning FHCC (including its facilities and operations), FHCC's financial information (as defined in the Preliminary Official Statement and the Official Statement), and FHCC's participation in the transactions contemplated by the Senior Limited Guaranty including the information in Appendix B to the Official Statement (collectively, the "FHCC Portion") are true and correct in all material respects, and the statements and the information set forth under the heading "RISK FACTORS – Risk Factors Relating to Sole Member/Guarantor" is a fair description of the risk factors related to FHCC. As described in this paragraph, such information in the Preliminary Official Statement does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

(ii) FHCC is duly organized and existing as a nonprofit corporation under the laws of the State of Tennessee authorized to do business in the State and FHCC has full legal right, power and authority to enter into the Senior Limited Guaranty, and to carry out and consummate all transactions contemplated by such Senior Limited Guaranty.

(iii) The execution and delivery of this Purchase Agreement and compliance with the provisions hereof, under the circumstances contemplated hereby, do not, in any material respect, conflict with or constitute on the part of FHCC a breach of or default under any other agreement or instrument to which FHCC is a party or, to FHCC's knowledge, any existing law, administrative regulation, court order or consent decree to which FHCC is subject.

(iv) All approvals, consents and orders of any governmental authority, board, agency, council, commission or other body in or of any state and the federal government having jurisdiction which would constitute a condition precedent to the performance by FHCC of its obligations hereunder and under the Senior Limited Guaranty have been obtained or, if not, are expected to be promptly obtained by FHCC as soon as commercially possible after the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase and sale of the Senior Bonds by the Underwriter).

(v) This Purchase Agreement assuming due authorization, execution and delivery by the other parties hereto, constitutes a valid and binding obligation of FHCC, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

(vi) No litigation to which FHCC is a party is pending or, to the knowledge of FHCC, threatened (A) seeking to restrain or enjoin the issuance or delivery of the Senior Bonds or the application of proceeds of the Senior Bonds as provided in the Senior Indenture, (B) in any way contesting or affecting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds, or the Senior Limited Guaranty, or (C) in any way affecting, in a material adverse manner, the property of FHCC or contesting the existence or powers of FHCC.

(vii) FHCC will take no action that could cause the interest on the Series 2025A Bonds to be subject to federal or state income taxation.

(viii) So long as the Senior Bonds are outstanding, FHCC will maintain its status as a nonprofit corporation described in Section 501(c)(3) of the Code and will take no action that would jeopardize such status.

(d) The Underwriter represents and agrees as follows:

(i) The Underwriter is a member of the National Association of Securities Dealers, is a registered broker/dealer in each state in which it proposes selling the Senior Bonds, has full power and authority to enter into this Purchase Agreement, and will comply with all federal and applicable state securities laws in each state in which it proposes selling the Senior Bonds.

(ii) The Underwriter hereby agrees that, in connection with the Underwriter's use or distribution of the Official Statement and its other activities related to the sale, other marketing of the Senior Bonds, the Underwriter will comply with all applicable requirements of federal and state securities, Blue Sky, broker-dealer, antifraud, or other applicable laws, including all regulations thereunder.

4. **Closing.** At 12:00 Noon, Central time, on April __, 2025 or such later date as we mutually agree upon (the “Closing”), the Issuer will deliver or cause to be delivered to us, at the offices of the Underwriter or at such other place as we may mutually agree upon, the Senior Bonds in definitive fully registered form, duly executed and authenticated. In addition, the other documents hereinafter mentioned will be delivered at the offices of Kutak Rock LLP (“Bond Counsel”) in Minneapolis, Minnesota and the Underwriter will accept such delivery and pay the purchase price thereof in federal funds payable to the order of the Issuer or the order of such person as the Issuer shall direct and such funds shall be available to the Issuer on the date of Closing.

The Senior Bonds will be delivered as fully registered bonds in such authorized denominations and registered in the name of Cede & Co. and in such amounts as authorized in the Senior Indenture. The Issuer will deposit with the Trustee, as agent to The Depository Trust Company (or such other acceptable depository institution), any or all of the Senior Bonds.

It is anticipated that CUSIP identification numbers will be printed on the Senior Bonds, but neither the failure to print such numbers on any Series 2025 Bond nor any error in the printing of such numbers on any Series 2025 Bond shall constitute cause for a failure or refusal by the Underwriter to accept delivery of and pay for any Senior Bonds. The Underwriter and the Issuer will cooperate to obtain the CUSIP numbers.

5. **Conditions Precedent.** The Underwriter has entered into this Purchase Agreement in reliance upon (i) the representations, warranties and agreements of the Issuer contained in this Purchase Agreement, in the Senior Indenture, in the Senior Loan Agreement, and the Resolution; (ii) the representations, warranties and agreements of the Company contained in this Purchase Agreement and in the other Senior Documents; (iii) the representations, warranties and agreements of FHCC contained in this Purchase Agreement and the Senior Limited Guaranty; and (iv) the performance by the Issuer, the Company, and FHCC of their obligations hereunder, if any, and under the above-mentioned documents, both as of the date hereof and as of the date of the Closing. The Underwriter’s obligations under this Purchase Agreement are and shall be subject to the following further conditions:

(a) The representations and warranties of the Issuer, the Company, and FHCC contained in this Purchase Agreement shall be true, complete and correct on the date of acceptance hereof and on and as of the date of the Closing with the same effect as if made on the date of the Closing.

(b) At the time of the Closing, the Official Statement, the Resolution, the Act, the Senior Indenture, the Senior Documents, and the Senior Limited Guaranty shall be in full force and effect, shall each be in form and substance acceptable to the Underwriter in all respects, and shall not have been amended, modified or supplemented except as may have been agreed to in writing by us; and the Issuer, the Company, and FHCC shall have duly adopted and there shall be in full force and effect such ordinances and resolutions, and entered into such agreements, as, in the opinion of Bond Counsel, and in the opinion of Ballard Spahr LLP, counsel to the Underwriter (“Underwriter’s Counsel”), shall be necessary in connection with the transactions contemplated hereby or the documentation of security for the Senior Bonds.

(c) The Underwriter may terminate this Purchase Agreement by notification in writing or by facsimile or telegram to the Issuer, the Company, and FHCC if at any time subsequent to the date hereof and at or prior to the Closing: (A) legislation shall be enacted by, or favorably reported out of a committee of, either House of the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, or a regulation or ruling shall be issued or proposed by or on behalf of the Treasury Department, the Internal Revenue Service of the United States of America, or an executive order of the President of the United States of America, or any other agency of the Federal Government having jurisdiction, or a release or official statement shall be issued by the Treasury Department, the Internal

Revenue Service of the United States of America, or any other agency of the Federal government having jurisdiction, with respect to Federal taxation upon interest received on obligations of the character of the Senior Bonds, which, in the reasonable judgment of the Underwriter, adversely affects the market for the Senior Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Senior Bonds; or (B) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the SEC is issued or made to the effect that the issuance, offering, sale or distribution of obligations of the character of the Senior Bonds is in violation of any provisions of the Securities Act of 1933, as amended (the “1933 Act”), or of the Trust Indenture Act of 1939, as amended (the “1939 Act”); or (C) the Congress of the United States of America shall enact a law, or a bill is favorably reported out of a committee of either House, or a decision by a court of the United States of America is rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or any other agency of the Federal government having jurisdiction of the subject matter is made, to the effect that securities of the Issuer or of any similar public body are not exempt from the registration, qualification or other requirements of the 1933 Act or the 1939 Act; or (D) the United States of America becomes engaged in hostilities (other than such as exist on the date of this Purchase Agreement) that result in a declaration of war or a national emergency; or (E) there occurs a general suspension of trading on the New York Stock Exchange; or (F) a general banking moratorium is declared by authorities of the State, the State of New York, or the United States of America; or (G) an event occurs which in the judgment of the Underwriter (i) makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Preliminary Official Statement or the Official Statement or which is not reflected in the Preliminary Official Statement or the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and/or (ii) adversely affects the market for the Senior Bonds or the sale, at the contemplated offering prices, by the Underwriter, of the Senior Bonds; or (H) all documentation in connection with the issuance of the Senior Bonds is not satisfactory in form and substance to the Underwriter or Underwriter’s Counsel; or (I) economic, market or other conditions occur or exist which, in the judgment of the Underwriter, render the Senior Bonds incapable of being sold on terms acceptable to the Underwriter; or (J) the results of any due diligence efforts by the Underwriter with respect to the proposed issuance of the Senior Bonds shall not, in the sole discretion of the Underwriter, be satisfactory to the Underwriter; or (K) any suit, proceeding, litigation or other action are commenced, or, if commenced prior to the date hereof, are continuing or have been adjudicated, which, in any event, in the reasonable judgment of the Underwriter, may affect the marketing, sale or delivery of the Senior Bonds; or (L) the Underwriter, the Company, FHCC, and the Issuer have not reached agreement as to the terms of any of the agreements referred to in this Purchase Agreement; or (M) there shall have occurred any national or international calamity or crisis, or escalation thereof, in the financial markets or otherwise of the United States of America; or (N) a default has occurred with respect to the obligations of, or proceedings have been instituted under the federal bankruptcy laws or any similar state laws by or against, any state of the United States of America, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Senior Bonds; or (O) the sovereign debt rating of the United States of America is downgraded by any major credit rating agency or a payment default occurs on United States Treasury obligations, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Senior Bonds.

(d) At or prior to the Closing, the Underwriter shall have received the following documents (in each case with such changes as the Underwriter shall approve):

(i) The unqualified approving opinion of Kutak Rock LLP, as Bond Counsel, dated the date of the Closing, in form acceptable in all respects to the Underwriter and Underwriter’s counsel (substantially in the form attached as APPENDIX G to the Official Statement, without material modifications or alterations);

(ii) A supplemental opinion of Kutak Rock LLP, as Bond Counsel, in substantially the form attached hereto as Exhibit B;

(iii) One or more opinions of Wornson Goggins Zard Neisen Morris & Brever, PC, as counsel to the Company and FHCC, dated the date of Closing, and addressed to Bond Counsel and the Underwriter, in substantially the form attached hereto as Exhibit B;

(iv) An opinion of Ballard Spahr LLP, as Underwriter's Counsel, dated the date of the Closing, and addressed to the Underwriter;

(v) A certificate of the Issuer, signed by an official of the Issuer, dated the date of the Closing, to the effect that, to the actual knowledge of the Issuer (A) the representations of the Issuer contained in this Purchase Agreement and in the Resolution, the Senior Loan Agreement, and the Senior Indenture are true and correct in all material respects as of the date of the Closing; (B) no litigation is pending or threatened, against the Issuer (1) seeking to restrain or enjoin the issuance or delivery of any of the Senior Bonds or the collection of revenues or other security pledged under the Senior Indenture or the Resolution, (2) in any way contesting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds, the Resolution, the Senior Loan Agreement, the Senior Indenture, the Pledge Agreement or this Purchase Agreement, or (3) in any way contesting the existence or powers of the Issuer; and (C) the information in the Issuer Portion of the Preliminary Official Statement was as of its date, and of the Official Statement is, true and correct in all material respects;

(vi) A certificate of the Company, signed by an authorized representative of the Company, dated the date of the Closing, to the effect that (A) the representations, warranties and agreements of the Company contained in this Purchase Agreement and in the Senior Documents are true and correct in all material respects as of the date of the Closing; (B) no litigation to which the Company is a party is pending or, to the knowledge of the Company, threatened, (1) seeking to restrain or enjoin the issuance or delivery of any of the Senior Bonds or the collection of revenues or other security pledged under the Senior Indenture, (2) in any way contesting or affecting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds, the Resolution, or any of the Senior Documents, or (3) in any way contesting the existence or powers of the Company; (C) no event affecting the Company has occurred since the date of the Official Statement that should be disclosed in the Official Statement, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (D) the information in the Preliminary Official Statement was as of its date, and of the Official Statement is, concerning the Company, the Project (including sources and uses of funds), and the Company's participation in the transactions contemplated by the Senior Documents, true and correct in all material respects, and the information under the heading "RISK FACTORS" is a fair description of the risk factors related to the Project; (E) all resolutions and other actions required to be approved or taken by or on behalf of the Company authorizing and approving the transactions described or contemplated in this Purchase Agreement or in the Official Statement, the execution of or approving of the respective forms of, as the case may be, the Senior Documents and the Senior Bonds have been duly approved by the Company, are in full force and effect and have not been modified, amended or repealed; (F) the Company is a nonprofit limited liability company organized and validly existing under the laws of the State with full power and authority to own its properties and conduct its business in the State; and (G) the Company has all necessary licenses, approvals, accreditations and permits presently required under federal, state and local laws to own and operate the Project or, if the Company does not currently have such licenses, approvals, accreditations and permits, they are expected to be promptly obtained by the Company as soon as commercially possible after the Closing for the Project;

(vii) A certificate of FHCC, signed by an authorized representative of FHCC, dated the date of the Closing, to the effect that (A) no litigation is pending or to its knowledge threatened, (1) seeking to restrain or enjoin the issuance or delivery of any of the Senior Bonds or the collection of revenues or other security pledged under the Senior Indenture, (2) in any way contesting or affecting any authority for the issuance of the Senior Bonds or the validity of the Senior Bonds or the Senior Limited Guaranty, or (3) in any way contesting the existence or powers of FHCC; (B) no event affecting FHCC has occurred since the date of the Official Statement that should be disclosed in the Official Statement, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (C) the FHCC Portion of the Preliminary Official Statement was as of its date, and the Official Statement is, true and correct in all material respects, and the information under the heading relating to FHCC “RISK FACTORS” is a fair description of the risk factors related to FHCC’s operations; (D) all resolutions and other actions required to be approved or taken by or on behalf of FHCC authorizing and approving the transactions described or contemplated in this Purchase Agreement, the Senior Limited Guaranty, or in the Official Statement, the execution of or approval of the respective forms of, as the case may be, this Purchase Agreement, the Senior Limited Guaranty, and the Official Statement have been duly approved by FHCC, are in full force and effect and have not been modified, amended or repealed; (E) FHCC is a nonprofit corporation organized and validly existing under the laws of the State of Tennessee with full power and authority to own its properties and conduct its business in the State; (F) FHCC has all necessary licenses, approvals, accreditations and permits presently required under federal, state and local laws to operate and conduct its business as currently operated or, if FHCC does not currently have such licenses, approvals, accreditations and permits, they are expected to be promptly obtained by FHCC as soon as commercially possible; (G) the execution and delivery of the Senior Limited Guaranty and compliance with the provisions thereof, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of FHCC a breach of or default under any other agreement or instrument to which FHCC is a party or, to FHCC’s knowledge, any existing law, administrative regulation, court order or consent decree to which FHCC is subject; and (H) this Purchase Agreement and the Senior Limited Guaranty, when each of them has been executed and delivered by FHCC, will, assuming due authorization, execution and delivery by the other parties thereto, each constitute a valid and binding obligation of FHCC, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors’ rights or remedies heretofore or hereafter enacted;

(viii) Certified copies of the Company’s resolutions or comparable actions of its Board of Directors authorizing the execution and delivery of the Senior Documents and approving the Senior Bonds;

(ix) Certified copies of the resolutions of FHCC or comparable actions of its Board of Directors authorizing the execution and delivery of this Purchase Agreement and the Senior Limited Guaranty;

(x) An execution copy or other copy, certified to the Underwriter’s satisfaction as true and correct, of each of the following items: the Senior Documents; the Company’s articles of organization; the Company’s certificate of good standing in the State; the Senior Limited Guaranty; FHCC’s articles of incorporation; FHCC’s certificates of good standing in the State of Tennessee and the State;

(xi) Issuance of the Subordinate Bonds by the Issuer and evidence satisfactory to the Underwriter that the Issuer, the Company, FHCC, and U.S. Bank Trust Company, National

Association, in its capacity as trustee with respect to the Subordinate Bonds have entered into the financing and security documents related thereto;

(xii) A lender's title insurance policy, or commitment therefor, in a form satisfactory to the Underwriter;

(xiii) Receipt of certificates of insurance acceptable to the Underwriter demonstrating that the Company has obtained the insurance policies required by the terms of the Senior Indenture and the Senior Loan Agreement;

(xiv) A final Phase I Environmental Site Assessment (the "Phase I Assessment") prepared within 180 days of Closing, including reliance and consent for the Underwriter, in a form satisfactory to Underwriter's Counsel; and

(xv) Such additional legal opinions, certificates, proceedings, agreements, instruments and other documents as counsel for the Underwriter or Bond Counsel, may reasonably request to evidence compliance with any legal requirements, to provide such additional assurances as the Underwriter may request, regarding the truth and accuracy, as of the time of Closing, of any representations given and the due performance or satisfaction at or prior to such time of all agreements then to be performed and all conditions then to be satisfied as conditions precedent to the issuance of the Senior Bonds.

If the Issuer, the Company, or FHCC shall be unable for any reason to satisfy the conditions of the Underwriter's obligation contained in this Purchase Agreement or if the Underwriter's obligation shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter, the Issuer, the Company, nor FHCC shall have any further obligations or liability hereunder, except that the respective obligations of the Issuer, the Company, FHCC, and the Underwriter set forth in Section 7 hereof, shall continue in full force and effect.

6. **Amendments to Official Statement.** After the date of the Official Statement and so long as the Underwriter, or dealers, if any, participating in the original distribution of the Senior Bonds, are offering Senior Bonds which constitute the whole or a part of their unsold participations, the Company will (a) not adopt any amendment of or supplement to the Official Statement without the prior written consent of the Underwriter, and (b) during such period or for forty-five (45) days from the date of the Closing, whichever is earlier, if any event relating to or affecting the Official Statement shall occur as a result of which, in the reasonable judgment of the Underwriter, it is necessary to amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to a purchaser, forthwith prepare and furnish to the Underwriter, at the expense of the Company, a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to counsel for the Underwriter) which will amend or supplement the Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time the Official Statement is delivered to a purchaser, not misleading. For the purposes of, and during the period of time provided by this Section, the Company will furnish, or cause to be furnished, such information with respect to itself as the Underwriter may from time to time reasonably request.

7. **Payment of Expenses.**

(a) Upon and subject to the issuance, sale and delivery of the Senior Bonds by the Issuer, the Company agrees to pay either directly or, to the extent permitted under federal tax law as determined by Bond Counsel, from the proceeds of the Senior Bonds and funds of the Company, all expenses and costs to

effect the authorization, preparation, issuance, delivery and sale of the Senior Bonds, including, without limitation: (i) the Underwriter's discount of \$ _____ for the Series 2025A Bonds and \$ _____ for the Series 2025A-T Bonds, plus miscellaneous expenses; (ii) rating agency fees and expenses, if any; (iii) the fees and disbursements of Bond Counsel, the fees and disbursements of the Company's and FHCC's counsel, the fees and disbursements of the Issuer, and the fees and disbursements of the Trustee, (iv) the fees and expenses of Underwriter's counsel, including, if any, those in connection with qualification of the Senior Bonds for sale under any Blue Sky or other securities laws and regulations of various jurisdictions and preparation of any Blue Sky survey, (v) the fees and expenses of certified public accountants, (vi) the expenses and costs for the printing and distribution of the Senior Bonds (including but not limited to CUSIPs and other fees and expenses required for the sale of the Senior Bonds by the Underwriter), the Preliminary Official Statement and the Official Statement, (vii) the expenses and costs for photocopying the Preliminary Official Statement, the Official Statement, the Resolution, the Senior Indenture, the Senior Limited Guaranty and the Senior Documents and all other agreements and documents contemplated hereby, and (viii) the various other expenses and costs of Closing.

(b) If the Senior Bonds are not issued and delivered by the Issuer to the Underwriter as a result of the failure by the Underwriter to perform any of the Underwriter's obligations under this Purchase Agreement (other than a failure of the Underwriter to comply with its obligation set forth in Section 1 hereof, if such obligation is not otherwise excused or terminated as provided in this Purchase Agreement) or as a result of the Company failing to reach agreement with the Underwriter as to the terms and conditions of the transactions and documents contemplated hereby, the Company agrees that it shall pay all expenses set forth in this Section 7, including all reasonable fees and expenses of Underwriter's Counsel, but excluding the Underwriter's underwriting fee.

8. **Rule 15c2-12 and Related Matters.** The Underwriter and the Company agree to cooperate reasonably with each other in order to carry out and comply with certain requirements of the Rule. The Issuer shall have no obligation of any kind under the Rule.

9. **Indemnification.** The Company and FHCC agree to indemnify and hold harmless the Issuer and the Underwriter and each person, if any, who controls (as such term is defined in Section 15 of the 1933 Act) the Issuer or the Underwriter against any and all losses, claims, damages and liability (a) arising out of any statement or information in the Company Portion or FHCC Portion of the Official Statement or the information therein under the heading "RISK FACTORS" that is untrue in any material respect or the omission therefrom of any statement which should be contained therein as of the date of the delivery of the Senior Bonds for the purpose for which the Official Statement is to be used or which is necessary to make the statements and information therein not misleading in any material respect; and (b) to the extent of the aggregate amount paid in settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or omission if such settlement is effected with the written consent of the Company. In case any claim shall be made or action brought against the Underwriter or the Issuer or any controlling person (as aforesaid) based upon such information in the Official Statement, in respect of which indemnity may be sought against the Company, the person or persons seeking indemnity shall promptly notify the Company and FHCC in writing setting forth the particulars of such claim or action and the Company and FHCC shall assume the defense thereof including the retention of counsel and the payment of all expenses. The person or persons seeking indemnity or any such controlling person shall have the right to retain separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such person seeking such indemnity unless (i) the retention of such counsel has been specifically authorized by the Company or FHCC, or (ii) in the reasonable judgment of the person seeking such indemnity, such separate counsel is advisable by reason of any actual or potential conflict of interest or by reason of separate defenses.

To the same extent as the foregoing indemnity from the Company and FHCC to the Issuer and the Underwriter, the Underwriter agrees to indemnify and hold harmless the Issuer, and each person, if any, who controls (as such term is defined in Section 15 of the 1933 Act) the Issuer, but only with reference to (a) the price and yield of the Senior Bonds stated on the inside cover page of the Official Statement, (b) the optional redemption dates and prices for the Senior Bonds, (c) the last paragraph of the cover of the Official Statement, (d) the information under the heading "UNDERWRITING" in the Official Statement, which information has been furnished by the Underwriter specifically for use in preparation thereof, and (e) allegations or determinations that the Underwriter itself has violated the agreement set forth in Section 3(d) hereof or the 1933 Act, the 1934 Act, or any applicable state Blue Sky law in the offer or sale of the Senior Bonds. In no case shall the Underwriter be responsible for any amount in excess of the underwriting fee applicable to the Senior Bonds purchased by it pursuant to this Purchase Agreement. In case any such claim shall be presented in writing or any action shall be brought against the Issuer with respect thereto, which indemnity may be sought from the Underwriter on account of its agreement contained in this Section, the Underwriter shall have the rights and duties given to the Company in the above paragraph and the Issuer shall have the rights and duties given by the above paragraph to the persons therein referred to as controlling persons. In no case shall the Underwriter be responsible to the Issuer, the Company or the Guarantor for any amount in excess of the underwriting fee applicable to the Series 2025 Bonds purchased by it pursuant to this Bond Purchase Agreement. There shall be no limitation on the extent of indemnification from the Company with respect to the Issuer. No recourse shall be had against the Underwriter for loss, damage, liability, costs or expense (whether direct, indirect or consequential) of the Company or Guarantor arising out of or in defending, prosecuting, negotiation or responding to any inquiry, questionnaire, audit, suit, or action, or other proceeding brought or received from the Internal Revenue Service in connection with the Series 2025A Bonds or otherwise relating to the tax treatment of interest on the Series 2025A Bonds.

The indemnities contained in this Purchase Agreement shall survive the Closing under this Purchase Agreement and any investigation made by or on behalf of the Underwriter or any person who controls any of such parties or any matters described in or related to the transactions contemplated hereby and by the Official Statement, the Resolution, the Senior Indenture, the Senior Limited Guaranty, and any Senior Documents.

The Company shall not be liable to indemnify any person in any settlement of any action effected without sufficient notice. The Company shall not be liable for any judgment if, as a result of the failure of the indemnified person to give notice of the commencement of a suit in respect of which indemnity shall be sought, the Company is not provided sufficient notice to defend such suit. Notwithstanding the provisions of this Section 9 or of any other provisions of this Purchase Agreement to the contrary, in the sole and exclusive discretion of the Issuer or any such controlling person of the Issuer, it is deemed desirable or necessary that the Issuer or such controlling person retain separate legal counsel in connection with any such matter, the fees and expenses of such separate legal counsel shall be included within the costs indemnified pursuant to this Section 9, and no prior approval to such separate representation and no consent by the Company to settlement or other disposition of such matter shall be required.

No recourse shall be had against the Underwriter for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of the Issuer, the Company, or FHCC arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with the Senior Bonds or otherwise relating to the tax treatment of interest on the Series 2025A Bonds.

10. **Establishment of Issue Price for Series 2025A Bonds.**

[OPTION 1

(a) The Underwriter agrees to assist the Issuer in establishing the issue price of the Series 2025A Bonds and shall execute and deliver to the Issuer on the Closing Date an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2025A Bonds.

(b) The Underwriter confirms that at least 10% of each maturity of the Series 2025A Bonds has been sold to the public at a single price (the “10% test”) (if different interest rates apply within a maturity, each separate CUSIP number within that maturity is evaluated separately). Schedule I attached to this Purchase Agreement sets forth the first price at which the Underwriter has sold to the public 10% of each such maturity of Series 2025A Bonds.

(c) The Underwriter confirms that the Underwriter has offered the Series 2025A Bonds to the public on or before the date of this Purchase Agreement (the “Sale Date”) at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Schedule I attached hereto.

(d) The Underwriter confirms that it does not have any selling group agreement and any third-party distribution agreement relating to the initial sale of the Series 2025A Bonds to the public.]

[OPTION 2

(a) The Underwriter agrees to assist the Issuer in establishing the issue price of the Series 2025A Bonds and shall execute and deliver to the Issuer on the Closing Date an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2025A Bonds.

(b) Except as otherwise set forth in Schedule I attached hereto, the Issuer will treat the first price at which 10% of each maturity of the Series 2025A Bonds (the “10% test”) is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Purchase Agreement, the Underwriter shall report to the Issuer and Bond Counsel the price or prices at which it has sold to the public each maturity of Series 2025A Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Series 2025A Bonds, the Underwriter agrees to promptly report to the Issuer the prices at which it sells the unsold Series 2025A Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Series 2025A Bonds of that maturity or until all Series 2025A Bonds of that maturity have been sold to the public.

(c) The Underwriter confirms that the Underwriter has offered the Series 2025A Bonds to the public on or before the date of this Purchase Agreement (the “Sale Date”) at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Schedule I attached hereto, except as otherwise set forth therein. Schedule I also sets forth, as of the date of this Purchase Agreement, the maturities, if any, of the Series 2025A Bonds for which the 10% test has not been satisfied and for which the Issuer and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the Issuer to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains

applicable to any maturity of the Series 2025A Bonds, the Underwriter will neither offer nor sell unsold Series 2025A Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the Sale Date; or
- (2) the date on which the Underwriter has sold at least 10% of that maturity of the Series 2025A Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the Issuer when it has sold 10% of that maturity of the Series 2025A Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

(d) The Underwriter confirms that it does not have any selling group agreement and any third-party distribution agreement relating to the initial sale of the Series 2025A Bonds to the public.]

(e) The Underwriter acknowledges that sales of any Series 2025A Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this Section 11. Further, for purposes of this Section 11:

- (i) “public” means any person other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2025A Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2025A Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2025A Bonds to the public), and
- (iii) a purchaser of any of the Series 2025A Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).
- (iv) “sale date” means the date of execution of this Purchase Agreement by all parties.

11. **Notices.** Any notice or other communication to be given to the Issuer, the Company, or FHCC under this Purchase Agreement may be given by delivering the same in writing and, except as otherwise provided, shall be delivered at, or mailed by certified or registered mail, return receipt requested, or telegraphed with such telegraph to be confirmed in writing, mailed in accordance with the preceding provisions, to the following addresses:

- (a) if to the Underwriter: Colliers Securities LLC
90 South Seventh Street
Suite 4300
Minneapolis, Minnesota 55402
Attention: Head of Public Finance
- with a copy to: Ballard Spahr LLP
2000 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402
Attention: Benjamin W. Johnson, Esq.
- (b) if to the Company Country Manor Campus Brainerd LLC
c/o The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377
Attn: Kevin Harguth, Chief Financial Officer
- with a copy to: Wornson Goggins Zard Neisen Morris & Brever, PC
119 East Main Street
New Prague, MN 56071
Attn: Eric Brever, Esq.
- (c) if to FHCC: The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377
Attn: Kevin Harguth, Chief Financial Officer
- with a copy to: Wornson Goggins Zard Neisen Morris & Brever, PC
119 East Main Street
New Prague, MN 56071
Attn: Eric Brever, Esq.
- (d) if to the Issuer: City of Brainerd, Minnesota
501 Laurel Street,
Brainerd, MN 56401
Attn: City Administrator

12. **Benefit.** This Purchase Agreement is made solely for the benefit of the Issuer, the Company, FHCC, and the Underwriter (including its successors or assigns), and no other person, partnership, association or Company shall acquire or have any right hereunder or by virtue hereof.

13. **Approval.** The approval of the Underwriter when required hereunder or the determination of its satisfaction as to any document referred to in this Purchase Agreement shall be in writing signed by the undersigned and delivered to you.

14. **Governing Law; Counterparts; Consent to Jurisdiction.** This Purchase Agreement shall be governed by the laws of the State and may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

15. **Electronic Signatures.** The parties agree that the electronic signature of a party to this Purchase Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Purchase Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

In addition, the parties to this Purchase Agreement acknowledge that certain legal documents may be executed and delivered through the use of electronic documents signing programs, and as such, the execution of this Purchase Agreement by way of a digital signature of an authorized representative of the Issuer provided by DocuSign (or such other digital signature provider as specified in writing by the Issuer to the parties to this Purchase Agreement) in English, does and will constitute a valid and binding signature of the authorized representative of the Issuer.

16. **Issuer’s Lack of Participation.** The Issuer hereby states and the Company, FHCC and the Underwriter hereby acknowledges and agrees that the Issuer has not been requested to participate in the preparation of or to review the Preliminary Official Statement or the Official Statement (other than as stated in Section 3(a)(i)), and the Issuer has not done so and will not do so and that the Issuer has made no independent investigation of the facts and statements provided therein, and the Issuer assumes (and the Company, FHCC, and the Underwriter covenants and agrees that the Issuer shall have) no liability with respect thereto, including without limitation matters relating to the accuracy, fairness, completeness, or sufficiency of the Preliminary Official Statement or the Official Statement. It is further understood and agreed that the Issuer’s execution and delivery of this Bond Purchase Agreement, and any action taken by the Issuer hereunder, or any failure or alleged failure on the part of the Issuer to abide by such terms hereof as may be applicable to the Issuer, shall not give rise to any pecuniary liability of the Issuer.

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

COLLIERS SECURITIES LLC,
as Underwriter

By: _____
Craig D. Theis
Its: Senior Vice President

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC

Approved and Agreed to:

CITY OF BRAINERD, MINNESOTA, as Issuer

By: _____
Name: _____
Its: Mayor

By: _____
Name: _____
Its: City Administrator

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC (Senior Bonds)

Approved and Agreed to:

COUNTRY MANOR CAMPUS BRAINERD LLC,
as Company

By: _____
Name: Anthony Fenstad
Its: Chief Executive Officer

By: _____
Name: Kevin Harguth
Its: Chief Financial Officer

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC (Senior Bonds)

Approved and Agreed to:

**THE FOUNDATION FOR HEALTH CARE
CONTINUUMS**, as Senior Limited Guarantor

By: _____
Name: Michael P. Rosen
Its: President

By: _____
Name: Fred T. Brown
Its: Secretary

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC (Senior Bonds)

SCHEDULE I

MATURITY SCHEDULE

\$ _____
City of Brainerd, Minnesota
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A

Dated: April __, 2025

Maturity Date and Schedule of Series 2025A Bonds

Serial Bonds

<u>Maturity Date (May 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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Term Bonds

\$ _____ % Series 2025A Term Bond Due May 1, 20__
Price of _____ % to Yield _____ %

<u>Redemption Date (May 1)</u>	<u>Principal Amount</u>
------------------------------------	-------------------------

**Stated Maturity.*

\$ _____ % Series 2025A Term Bond Due May 1, 20__
Price of _____ % to Yield _____ %

<u>Redemption Date (May 1)</u>	<u>Principal Amount</u>
------------------------------------	-------------------------

**Stated Maturity.*

\$ _____ % Series 2025A Term Bond Due May 1, 20__
 Price of _____ % to Yield _____ %

Redemption Date (May 1)	Principal Amount	Redemption Date (May 1)	Principal Amount
------------------------------------	-------------------------	------------------------------------	-------------------------

**Stated Maturity.*

Maturity Date and Schedule of Series 2025A-T Bonds

\$ _____
City of Brainerd, Minnesota
Taxable Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A-T

\$ _____ % Series 2025A-T Term Bond Due May 1, 20__
 Price of _____ % to Yield _____ %

Redemption Date (May 1)	Principal Amount
------------------------------------	-------------------------

**Stated Maturity.*

Optional Redemption

Series 2025A Bonds. The Series 2025A Bonds are subject to redemption prior to maturity upon request of the Company on any day on or after May 1, 20__, in such order of maturities as shall be selected by the Company and by lot within a maturity, at their principal amount, plus accrued interest, plus a premium (expressed as a percentage of the principal amount of the Series 2025A Bonds so redeemed) set forth below:

Redemption Date	Redemption Premium
May 1, 20__ through April 30, 20__	
May 1, 20__ through April 30, 20__	
May 1, 20__ and thereafter	

Series 2025A-T Bonds. The Series 2025A-T Bonds are not subject to optional redemption prior to maturity.
Other Redemptions

The Senior Bonds are also subject to other redemption provisions as set forth in the Senior Indenture.

EXHIBIT A
FORM OF ISSUE PRICE CERTIFICATE
[To come from Bond Counsel]

EXHIBIT B

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

[To come from Bond Counsel]

EXHIBIT C

FORM OF OPINION[S] OF COMPANY AND SOLE MEMBER'S COUNSEL

[To come from Company and Sole Member's Counsel]

First Draft
March 5, 2025

SUBORDINATE INDENTURE OF TRUST

between

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

and

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

Dated as of April 1, 2025

Relating to:

**§[Par B]
City of Brainerd, Minnesota
Subordinate Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025B**

This instrument was drafted by:

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SUBORDINATE INDENTURE OF TRUST

THIS SUBORDINATE INDENTURE OF TRUST, dated as of April 1, 2025 (the “Subordinate Indenture”), is between the CITY OF BRAINERD, MINNESOTA, a home rule charter city and political subdivision of the State of Minnesota, organized and existing pursuant to its charter and the Constitution and laws of the State of Minnesota (the “Issuer”), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association with trust powers having a place of business in Saint Paul, Minnesota (the “Trustee”).

WITNESSETH:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), the Issuer is authorized to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds to provide funds to finance and refinance multifamily housing developments combined with a new or existing health care facility (including independent living, assisted living, and memory care facilities); and

WHEREAS, pursuant to Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the “Industrial Development Act”), the Issuer is authorized to issue revenue bonds to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of a project, defined in the Industrial Development Act, to include any properties, real or personal, used or useful in connection with a revenue producing enterprise; and

WHEREAS, Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, has proposed to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property” or “Land”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a day care to be located on the Property (the “Day Care Project,” and together with the Senior Housing Project, the “Project”); and (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; and

WHEREAS, in order to finance a portion of the costs of the Project, finance capitalized interest, fund required reserves, and pay related costs of issuance, the Borrower has requested that the Issuer issue its Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B (the “Series 2025B Bonds”), in the original aggregate principal amount of \$[Par B], in accordance with the Housing Act, the Industrial Development Act, a resolution adopted by the City Council of the Issuer on March 17, 2025 (the “Bond Resolution”), and this Subordinate Indenture; and

WHEREAS, the Issuer will loan the proceeds of the Series 2025B Bonds (the “Loan”) to the Borrower pursuant to a Subordinate Loan Agreement, dated as of April 1, 2025 (the “Subordinate Loan Agreement”), between the Issuer and the Borrower, and the Borrower will agree under the Loan Agreement to make loan repayments as required to repay the Series 2025A Bonds and the Series 2025B Bonds; and

WHEREAS, to secure the payment of the principal of, premium (if any), and interest on the Series 2025B Bonds and the Borrower’s obligations under the Subordinate Loan Agreement, the Borrower will execute a Subordinate Combination Construction Mortgage, Security Agreement, Fixture Financing

Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the “Subordinate Mortgage”), by the Borrower in favor of the Trustee; and

WHEREAS, the Series 2025B Bonds will be further secured by a Guaranty Agreement, dated as of April 1, 2025 (the “Subordinate Guaranty”), by and between the Sole Member and the Trustee; and

WHEREAS, in order to finance a portion of the costs of the Project, finance capitalized interest, fund required reserves, and pay related costs of issuance, the Borrower has also requested that the Issuer issue its Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A (the “Series 2025A Bonds”), in the original aggregate principal amount of \$[Par A], and its Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the “Series 2025A-T Bonds”), in the original aggregate principal amount of \$[Par A-T], in accordance with the Housing Act, the Industrial Development Act, the Bond Resolution, and separate Indenture of Trust, dated as of April 1, 2025 (the “Senior Indenture”), between the Issuer and the Trustee; and

WHEREAS, the Issuer will loan the proceeds of the Series 2025A Bonds and the Series 2025A-T Bonds to the Borrower pursuant to a separate Loan Agreement, dated as of April 1, 2025 (the “Senior Loan Agreement”), between the Issuer and the Borrower, and the Borrower will agree under the Senior Loan Agreement to make loan repayments as required to repay the Series 2025A Bonds and the Series 2025A-T Bonds; and

WHEREAS, all conditions, acts and things necessary and required by the Constitution and laws of the State of Minnesota, or otherwise, to exist, to have happened or to have been performed precedent to and in the execution and delivery of this Subordinate Indenture, and in the issuance of the Series 2025B Bonds, do exist, have happened or have been performed in regular form, time and manner, and the execution and delivery of this Subordinate Indenture have been in all respects duly authorized; and

WHEREAS, the Trustee has accepted the trust created by this Subordinate Indenture and in evidence thereof has joined in the execution.

NOW, THEREFORE, THIS SUBORDINATE INDENTURE WITNESSETH:

GRANTING CLAUSES

To secure payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect, and the performance of all covenants and conditions therein and herein contained, and in consideration of the premises, and of the purchase of the Bonds by the Holders thereof, the Issuer by these presents does pledge and grant to the Trustee and its successors in trust a security interest in the following described property, rights, privileges and franchises (collectively, the “Trust Estate”), to wit:

GRANTING CLAUSE FIRST

All rights, title, interest and privilege of the Issuer in, to and under the Subordinate Loan Agreement, including, but not limited to, all Loan Repayments and Additional Payments (all as hereinafter defined), the Subordinate Mortgage, the Subordinate Guaranty, but excluding the Issuer’s Unassigned Rights (as defined herein).

GRANTING CLAUSE SECOND

All other property of every kind which is now or hereafter subjected to the lien of this Subordinate Indenture or pledged or assigned to the Trustee pursuant to the provisions of this Subordinate Indenture,

including without limitation, all cash and securities now or hereafter held in the Trust Funds created or established under this Subordinate Indenture, and all insurance proceeds and condemnation awards or other money represented by Trust Money (as hereinafter defined).

TO HAVE AND TO HOLD the Trust Estate unto the Trustee and its successors and assigns forever.

BUT IN TRUST, NEVERTHELESS, for the equal and proportionate benefit and security of the Holders from time to time of all the Bonds without any priority of any Bonds over any other except as elsewhere herein expressly provided.

UPON THE TRUSTS and subject to the covenants and conditions hereinafter set forth.

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ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. Definitions. Capitalized terms defined in this Subordinate Indenture and not required to be otherwise capitalized are used with the meanings, if any, ascribed thereto in the Subordinate Loan Agreement or the Subordinate Mortgage. Unless the context otherwise requires, the terms defined in this Article I and in the Recitals, Granting Clauses and succeeding Articles of this Subordinate Indenture shall, for all purposes of this Subordinate Indenture and of any Supplemental Subordinate Indenture supplemental hereto, have the meanings in this Subordinate Indenture specified, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined:

Accountant means an Independent certified public accountant or accountants retained by the Borrower.

Act means Minnesota Statutes, Chapter 462C, as amended, and Sections 469.152 through 469.1655, as amended.

Additional Bonds means any Bonds issued pursuant to Article IV hereof.

Additional Payments means the payments required to be made by the Borrower by Section 4.3 of the Subordinate Loan Agreement and Section 5.13 of this Subordinate Indenture.

Affiliate means any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

Alterations has the meaning assigned in Section 5.3 of the Subordinate Loan Agreement.

Arbitrage Bonds means any obligation issued as part of an issue, any portion of the proceeds of which are intentionally or reasonably expected (at the time of issuance of the obligation) to be used to directly or indirectly acquire higher yielding investments, or to replace funds which were used to acquire higher yielding investments, and includes any modifications to such term made by the Code and Treasury Regulations after the Closing Date.

Assignment and Subordination of Management Agreement means the Assignment and Subordination of Management Agreement, dated as of April 1, 2025, by the Borrower in favor of the Trustee as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Audited Fiscal Year means a Fiscal Year for which the audit report and opinion referred to in Section 7.10(b) of the Subordinate Loan Agreement have been completed.

Authorized Denominations means denominations of \$25,000 or any integral multiple of \$5,000 thereof.

Balloon Indebtedness means any Indebtedness twenty-five percent (25%) or more of the original principal amount of which (A) is due in any twelve (12) month period; or (B) may, at the option of the holder thereof, be required to be redeemed, prepaid, or purchased directly or indirectly

by the Borrower or otherwise paid in any twelve (12) month period; provided, that, in calculating the principal amount of such Balloon Indebtedness due or required to be redeemed, prepaid, purchased or otherwise paid in any twelve (12) month period, such principal amount shall be reduced to the extent that all or any portion of such amount is required to be amortized prior to such twelve (12) month period. Balloon Indebtedness does not include the Series 2025B Bonds.]

Beneficial Holder or Beneficial Owner means any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

Board means the governing body of the Borrower or any duly authorized committee thereof.

Bond Counsel means Kutak Rock LLP, Minneapolis, Minnesota, or any attorney or firm of attorneys nationally recognized as experienced in matters relating to the tax-exempt financing of facilities of the same character as the Project, retained by the Borrower and acceptable to the Issuer.

Bond Purchase Agreement means a contract relating to the purchase of a series of Bonds between the Issuer, the Borrower, the Original Purchaser of such series of Bonds and such other Persons required to be a party thereto by the Original Purchaser of such series of Bonds. The Bond Purchase Agreement for the Series 2025B Bonds is dated _____, 2025.

Bond Register has the meaning given such term in Section 2.07 hereof.

Bond Registrar has the meaning given such term in Section 2.07 hereof.

Bond Resolution means the resolution adopted by the City Council of the Issuer on March 17, 2025, authorizing the issuance and sale of the Series 2025B Bonds, as the same may be amended, modified or supplemented by any amendments or modifications thereof.

Bond Year means for the 2025B Bonds, the twelve (12) month period beginning on _____ 1 in any year and ending on _____ [30] [31] of the following year; provided that the first Bond Year for the Series 2025B shall commence on the Closing Date of the Series 2025B Bonds and end on _____, 2026. For any series of Additional Bonds, the Bond Year means the period so designated in the Supplemental Indenture for the Additional Bonds.

Bondholder or Holder means a Person in whose name a Bond is registered in the Bond Register.

Bonds means all Bonds issued pursuant to this Subordinate Indenture, including the Series 2025B Bonds and any Additional Bonds.

Book-Entry Form means Bonds of any series that are held in the name of the Depository (or its nominee), with each maturity of the series evidenced by a single Bond certificate.

Book-Entry System means a system of record keeping, securities clearance and funds transfer and settlement maintained for securities by the Depository and Participants.

Borrower means Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company, its successors and assigns.

Borrower Certificate means a certificate signed by any officer of the Borrower and delivered to the Trustee.

Borrower Documents means the Subordinate Loan Agreement, the Mortgage, the Continuing Disclosure Agreement, the Collateral Assignment of Architect's Contract, the Collateral Assignment of Design-Build Contract, the Disbursing Agreement, the Assignment and Subordination of Management Agreement, the Bond Purchase Agreement, and the BQ Fee Agreement.

Borrower Request, Borrower Order, or Borrower Consent means, respectively, a written request, order, or consent signed in the name of the Borrower by any officer of the Borrower and delivered to the Trustee.

Borrower Resolution means a resolution certified by an officer of the Borrower to have been duly adopted by the Board and to be in full force and effect on the date of such certification, and delivered to the Trustee.

Borrower Tax Certificate means the Tax Certificate of the Borrower and the Sole Member executed and delivered by the Borrower on the Closing Date of an issue of Tax-Exempt Bonds.

BQ Fee Agreement means the Bank Qualified Fee Agreement, dated as of April 1, 2025, between the Borrower and the Issuer, as may be amended and supplemented from time to time.

Business Day means any day other than a Saturday, Sunday or other day on which the Trustee's corporate trust office administering this Subordinate Indenture is not open for business.

Capitalized Interest Fund means the fund created in Section 5.08 hereof.

[Cash on Hand means for any period the quotient resulting from dividing (a) the Borrower's total unrestricted and unencumbered cash and marketable securities for such period (excluding amounts on deposit in the Debt Service Fund, Debt Service Reserve Fund, Repair and Replacement Reserve Fund, Tax and Insurance Fund, and Capitalized Interest Fund) by (b) the quotient resulting from dividing the total Project Operating Expenses (excluding depreciation and amortization expenses, unrealized losses on investments, extraordinary losses and expenses, and any other non-cash expense) for such period, by number of days in such period.]

City means the City of Brainerd, Minnesota, a home rule charter city and political subdivision of the State.

Closing Date means the date of issuance of any series of Bonds. The Closing Date for the Series 2025B Bonds is [____], 2025.

Code means the Internal Revenue Code of 1986, as amended. All references to sections of the Code are to the sections thereof as they exist on the date of execution and delivery of this instrument.

[Collateral Assignment of Architect's Contract means the Collateral Assignment of Architect's Contract, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.]

[Collateral Assignment of Design-Build Contract means the Collateral Assignment of Design-Build Contract, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may

be from time to time amended or supplemented in accordance with the provisions thereof and hereof.]

Collateral Document means any written instrument other than the Subordinate Loan Agreement, this Subordinate Indenture, the Subordinate Guaranty, the Assignment and Subordination of Management Agreement, the Management Subordination Agreement, the Collateral Assignment of Architect's Contract, the Collateral Assignment of Design-Build Contract, and the Subordinate Mortgage whereby any property, interest in property or promise of any kind is granted, pledged, conveyed, assigned, or transferred to the Issuer or Trustee, or both, as security for payment of the Bonds or performance by the Borrower of its obligations under the Subordinate Loan Agreement.

Completion Date means, with reference to the Project, the date specified in Section 3.3 of the Subordinate Loan Agreement.

Construction Contract means any contract of the Borrower providing for the construction, equipping or installation of any part of the Project or any Improvement, including any amendment thereof made in accordance with the provisions thereof and of the Subordinate Loan Agreement.

Construction Fund means the fund created in Section 5.03 hereof.

Continuing Disclosure Agreement means the Continuing Disclosure Agreement, dated as of April 1, 2025, between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof relating to the Series 2025B Bonds.

Contractor means a Person with whom the Borrower enters into a Construction Contract.

Costs of Issuance means any and all sums of money required to authorize, sell and issue the Bonds, including, but not limited to, all legal, abstracting, financial and accounting fees and expenses, underwriter's fees or commissions, printing and engraving costs, fees, costs and expenses of the Issuer, the fees, the initial or acceptance fee and expenses of the Trustee, all fees and taxes required in connection with recording or filing this Subordinate Indenture, the Mortgage, and all financing statements and all other expenses incurred in connection with the preparation of the Loan Agreement, this Subordinate Indenture, the Mortgage, and any other documents, together with any other items of costs constituting "issuance costs" within the meaning of Section 147(g) of the Code.

Costs of Issuance Fund means the fund created in Section 5.04 hereof.

Day Care Project means the acquisition, construction, and equipping of a day care to be located on the Land. The Day Care Project will be owned and operated by _____.

Debt Service Fund means the fund created in Section 5.05 hereof.

Debt Service Reserve Fund means the fund created in Section 5.06 hereof.

Defaulted Interest means interest installments or any part thereof on any Bond which is payable but not punctually paid or duly provided for on an Interest Payment Date, as further described in Section 2.09 hereof.

Defeasance Obligations means Government Obligations which are not subject to redemption in advance of their stated maturities.

Depository means The Depository Trust Company in New York, New York, its successors or assigns, or any other person who shall be a Holder of all Bonds of a single series, directly or indirectly for the benefit of Beneficial Owners, and approved by the Issuer and the Original Purchaser for the series to act as the Depository; provided that any Depository shall be registered or qualified as a “clearing agency” within the meaning of Section 17A of the Securities and Exchange Act of 1934, as amended.

Determination of Taxability means receipt by the Trustee of a statutory notice of deficiency by the Internal Revenue Service, a ruling from the National Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction which holds in effect that interest payable on any Tax-Exempt Bonds is includable for federal income tax purposes in the gross income of a Bondholder because of any act or omission of the Borrower (or any successor or transferee), the Sole Member, or of the Trustee; provided, however, that the Borrower shall have an opportunity for no more than one hundred eighty (180) days after receipt by the Trustee to contest any such statutory notice, ruling or final decision and that no such statutory notice, ruling or final decision shall be deemed a “Determination of Taxability” if the Borrower is contesting the same during such one hundred eighty (180) day period in good faith until the earliest of (a) abandonment of such contest by the Borrower, (b) the date on which such statutory notice, ruling or final decision becomes final, or (c) the first day following the one hundred eighty (180) day period after the initial receipt by the Trustee of such statutory notice, ruling or final decision; and provided further that no Determination of Taxability shall arise from the interest on the Tax-Exempt Bonds being included (1) in income for purposes of calculating alternative minimum taxable income of any taxpayer; (2) in earnings and profits of branches of foreign corporation for purposes of calculating the “branch profits tax”; (3) within gross income to certain recipients of social security or railroad retirement benefits; or (4) as passive investment income to certain subchapter S corporations which have subchapter C earnings and profits.

Determination Period has the meaning given such term in Section 6.4(b) of the Subordinate Loan Agreement.

Disbursing Agreement means the Disbursing Agreement, dated as of April 1, 2025, between the Borrower, the Trustee, as trustee for the Series 2025B Bonds and the Senior Bonds, and the Title Company, as the same may be amended from time to time.

Disbursement Request means a request for an advance from the Construction Fund substantially in the form attached to the Disbursing Agreement.

Dissemination Agent means U.S. Bank Trust Company, National Association, its successors and assigns.

DTC means The Depository Trust Company, New York, New York.

Electronic Notice means a notice transmitted through a time-sharing terminal, facsimile machine or the Internet, as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message, if operative as between any two parties, for which a transmission confirmation has been received by the sender and which is confirmed in writing within twenty-four (24) hours (with an automatic “read receipt” or similar notice not constituting confirmation of an email receipt for purposes of this this definition).

Environmental Laws means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to or governing the generation, handling, labeling, storage, transport or disposal of Hazardous Substances.

Event of Default means any event defined as such in Section 7.01 hereof or Section 9.1 of the Subordinate Loan Agreement.

Fiscal Year means the period commencing on October 1 of any year and ending on September 30 of the following year, or any other twelve (12) month period specified in a Borrower Resolution as the fiscal year of the Borrower.

GAAP means the generally accepted accounting principles for nonprofit organizations, consistently applied.

Government Obligations means:

(a) direct general obligations of, or obligations the prompt payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America;

(b) repurchase agreements or similar financial transactions the payment of principal of and interest on which are fully secured by obligations of the type described in clause (a) or (c) of this definition:

(i) which collateral (A) is held by the Trustee during the all or a portion of the term of the instrument which such collateral secures, (B) is not subject to liens or claims of any third parties and (C) has a market value (determined at least once every six months at the lower of the then current market value thereof or the repurchase price thereof set forth in the applicable repurchase agreement) at least equal to the amount so invested; and (ii) provided that each such repurchase agreement (A) is in commercially reasonable form, (B) is for a commercially reasonable period, and (C) results in the transfer of legal title to identified Government Obligations which are segregated in a custodial or trust account for the benefit of the Trustee;

(c) bonds, notes or other debt obligations issued by a state or a political subdivision or municipal corporation thereof which are payable in whole from an escrow or similar fund or account containing only cash and/or obligations of the type described in clause (a) above;

(d) certificates or other evidence of ownership of principal to be paid or interest to accrue on a pool of securities of the type described in clause (a) above, which securities are held in the custody of a bank or trust company acceptable to the Trustee in a special account separate from the general assets of such custodian;

(e) shares of an investment company registered under the Investment Company Act of 1940, and whose only investments are in securities described in clause (a) above; and

(f) certificates of deposit or time deposits which are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

[Gross Revenues means total operating revenues for a specified period but excluding unrealized gains and losses on investments, and any extraordinary or non-recurring items, as determined in accordance with GAAP.]

Hazardous Substances means any dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, and/or the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.(C) § 6901 et seq. and 42 U.S.(C) § 9601 et seq.), as amended, or any other Environmental Laws, and also including urea-formaldehyde, polychlorinated biphenyls, dioxin, radon, asbestos, asbestos containing materials, nuclear or radioactive fuel or waste, infectious waste, and petroleum, including but

not limited to crude oil or any fraction thereof, natural gas, natural gas liquids, gasoline and synthetic gas, or any other waste, substance, pollutant or contaminant which would subject the owner of the Land to any damages, penalties or liabilities under any applicable law, statute, code, ordinance, regulation, requirement or rule.

Improvements or Improvement mean any addition, enlargement, improvement, extension or alteration of or to the Project or Related Facilities as they then exist.

Indebtedness means, without duplication, (i) all indebtedness, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed, (ii) all indebtedness for the payment of the purchase price of property or assets purchased, (iii) all guaranties, endorsements, assumptions and other contingent obligations with respect to, or to purchase or to otherwise acquire, indebtedness of others, (iv) all indebtedness secured by any mortgage, pledge or lien existing on property owned, subject to such mortgage, pledge or lien, whether or not the indebtedness secured thereby shall have been assumed, and (v) installment purchase contracts, loans secured by purchase money security interests, lease-purchase agreements or capital leases (including leases of real property), entered into by the Borrower in connection with the acquisition of property not previously owned by the Borrower, all of the foregoing computed in accordance with GAAP; provided, however, that “Indebtedness” does not include (a) debt up to the amount of the aggregate cash equivalents and marketable securities (valued at market) held in the funds of the Borrower which have been irrevocably pledged and designated by the Borrower (consistent with the restriction attendant to such funds) to satisfy a specified debt of the Borrower, (b) unsecured borrowings from any Affiliate of the Borrower that is subordinate to all other Indebtedness, (c) trade accounts payable and accrued expenses incurred in the normal course of business, or (d) subordinated indebtedness subject to a written subordination agreement. For purposes of this definition no single evidence of indebtedness shall be counted more than once even though more than one (1) of the clauses (i) through (v) above may apply.]

Indemnified Parties has the meaning given such term in Section 7.7(a) of the Subordinate Loan Agreement.

Independent when used with respect to any specified Person, means such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the Borrower or any Affiliate, other than the payment to be received under a contract for services to be performed by such Person; and (iii) is not connected with the Borrower or any Affiliate as an official, officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions. Whenever it is herein provided that any Independent Person’s opinion or certificate shall be furnished to the Trustee, such Person shall be appointed by the Issuer, the Borrower or the Trustee, as the case may be.

Insurance Consultant means any Person retained by the Borrower experienced in matters relating to the insurance of facilities of the same character as the Project.

Insurance Subsidiary means any corporation which controls or is controlled by the Borrower or which is an Affiliate of a corporation which controls the Borrower and which is in the business of providing insurance coverage to the Borrower.

Interest Payment Date means, for all Series 2025B Bonds, May 1 and November 1 of each year, commencing [November 1, 2025], and for any Additional Bonds, the dates established for the regularly scheduled payment of interest thereon in any Supplemental Indenture for the Additional Bonds.

Interim Indebtedness means any Indebtedness incurred, assumed or guaranteed by the Borrower on an interim basis to provide temporary financing as permitted by the Subordinate Loan Agreement.

Issuer means the City and any successor to its functions hereunder and any successor to its functions hereunder.

Issuer Certificate means a certificate signed by the Mayor or the City Administrator of the Issuer, or other officer of the Issuer specified in an Issuer Resolution, and delivered to the Trustee.

Issuer Request, Issuer Order, or Issuer Consent means, respectively, a written request, order or consent of the Issuer, signed by the Mayor or the City Administrator of the Issuer, or other officer of the Issuer designated by an Issuer Resolution, and delivered to the Trustee.

Issuer Resolution means a resolution or other appropriate enactment by the governing body of the Issuer certified by an appropriate officer of the Issuer to have been duly adopted by the Issuer and to be in full force and effect on the date of such certification, and delivered to the Trustee.

Issuer's Unassigned Rights means the following rights of the Issuer under the Subordinate Loan Agreement: (i) to reliance on the representations of the Borrower under Section 2.2; (ii) to its portion of the Additional Payments under Sections 4.3(a), 4.4, 4.5, and 4.6; (iii) to reports and other information by the Borrower under Sections 7.10, 7.11(j), and 11.9; (iv) to indemnification under Sections 7.7 and 11.8; (v) to release under Section 7.2; (vi) to legal expenses under Section 9.11; and (vii) to enforcement of payment of Make Whole Payments under Section 9.13; provided, however, that any rights, benefits and interests inuring to the benefit of the Trustee (either directly or by assignment of the Subordinate Loan Agreement) pursuant to any of the foregoing sections shall not constitute Issuer's Unassigned Rights; and further provided, however, that the Issuer also retains any other rights, benefits and interests that, but their terms do not inure to the benefit of the Trustee, for example, without limitation, rights to receive notices.

Land means the real estate described in Exhibit A attached to the Subordinate Mortgage on which the property financed by the proceeds of the Series 2025B Bonds is located, and any additional real estate or undivided interest therein which may be included within the lien of the Subordinate Mortgage pursuant to Article IV of the Subordinate Mortgage, but excluding any real estate released from the lien of the Subordinate Mortgage pursuant to the terms thereof or of the Subordinate Loan Agreement.

Letter of Credit means an irrevocable direct pay letter of credit in the amount of \$_____ delivered by _____ in favor of the Trustee.]

Letter of Representations means the Blanket Issuer Letter of Representations between the Depository and the Issuer and any amendments or supplements thereto.

Liquidity Covenant has the meaning set forth in Section 7.9(a) of the Subordinate Loan Agreement.

Loan means the loan by the Issuer to the Borrower of the proceeds of the Bonds, exclusive of any accrued interest paid by the Original Purchaser of the Bonds upon the delivery thereof, but including the underwriting discount, if any, in connection with the sale of Bonds by the Issuer to the Original Purchaser.

Loan Repayment means a Loan Repayment required to be made by the Borrower with respect to the Series 2025B Bonds.

Loan Repayment Date means a date on which a Loan Repayment is due pursuant to Section 4.2 of the Subordinate Loan Agreement.

[Long-Term Indebtedness means Indebtedness of the Borrower other than Short-Term Indebtedness (except as provided in Section 6.2 of the Subordinate Loan Agreement).]

Majority of Bondholders means the Holders of more than fifty percent (50%) of Outstanding Bonds.

Make Whole Payments means any payments required to be made to or on behalf of the Issuer under the Issuer's Unassigned Rights.

Management Agreement means the Management Services Agreement, dated December 30, 2024, between the Borrower and the Manager, and any other successor contract providing for management services of the Project, as the same may be amended from time to time in accordance with the terms of the Loan Agreement.

Management Consultant means a Person qualified to study operations of independent and assisted living facilities and having a favorable reputation for skill and experience in such work and, unless otherwise specified in the Subordinate Loan Agreement, retained by the Borrower.

[Management Fees means compensation paid to the Manager for management of the Project, exclusive of reimbursement for costs paid by the Manager which otherwise constitute Project Operating Expenses; provided, however, that information technology fees payable to Sole Member are not Management Fees.]

Management Subordination Agreement means the Assignment and Subordination of Management Agreement, dated as of April 1, 202, by the Borrower in favor of between the Trustee, as trustee for the Senior Bonds and the Series 2025B Bonds, consented to by the Manager, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Manager means Continuums Management Services LLC, or any person performing management services for the Project under one (1) or more Management Agreements.

Maturity, when used with respect to any Bond, means the date on which the principal of such Bond becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

Mortgaged Property has the meaning given such term in the Subordinate Mortgage.

Net Proceeds, when used with respect to any insurance claim or condemnation award, means the gross proceeds from such insurance claim or condemnation award remaining after payment of all expenses (including attorneys' fees and any expenses of the Issuer, the Borrower and the Trustee) incurred in the collection of such gross proceeds.

[Net Revenues Available for Debt Service means Gross Revenues for a specified period, whether historic or projected, less total Project Operating Expenses for the same specified period, whether historic or projected, excluding (i) extraordinary gains and losses; (ii) unrealized gains and losses on investments; and (iii) losses on unamortized discount and financing expenses, as determined in accordance with GAAP, to which shall be added the amount of all (a) depreciation, amortization and interest expense which has been included in total Project Operating Expenses and (b) other non-operating income and contributions available for debt service, all for the same specified period.]

Opinion of Counsel means a written opinion of legal counsel, who may (except as otherwise specifically provided in the Subordinate Loan Agreement or this Subordinate Indenture) be counsel for the Issuer or the Borrower.

Optional Redemption Fund means the fund created in Section 5.07 hereof.

Original Purchaser means, with respect to the Series 2025B Bonds, Colliers Securities LLC and any successor thereto and with respect to Additional Bonds, the original purchaser or underwriter of such series of Additional Bonds.

[Other Indebtedness means Indebtedness of the Borrower described in clause (iii) of the definition of Indebtedness but shall not include any item of Indebtedness which is also Short-Term Indebtedness or Interim Indebtedness or allowed to be treated as Short-Term Indebtedness or Interim Indebtedness under the Subordinate Loan Agreement.]

Outstanding, when used with reference to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Subordinate Indenture, except:

- (i) Bonds theretofore canceled by the Trustee or delivered to the Trustee canceled or for cancellation;
- (ii) Bonds defeased in accordance with the terms of this Subordinate Indenture; and
- (iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Subordinate Indenture;

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer, the Borrower or any Affiliate shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Bonds which the Trustee actually knows to be so owned shall be disregarded.

Participants means persons who are designated as participants of the Depository in connection with the operation of a Book-Entry System.

Permitted Encumbrances means those encumbrances set forth in the Subordinate Mortgage.

Person means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Plans and Specifications means the plans and specifications for the construction work included in the Project, if any, to be approved by the Borrower and available for inspection by the Trustee, as the same may be modified from time to time in accordance with the provisions of Section 3.2 of the Subordinate Loan Agreement.

Pledged Equipment means any personalty financed by the Series 2025B Bonds or the Senior Bonds and used in the operation of the Project and any substitutions or replacements thereof, subject only to superior liens on personalty allowed under Section 5.4 of the Subordinate Loan Agreement and Permitted Encumbrances.

[Principal and Interest Requirements on Long-Term Indebtedness means, for any Fiscal Year, the amount required to pay the interest on and the principal of Long-Term Indebtedness becoming due in such Fiscal Year, excluding “funded interest” from the proceeds of Indebtedness; subject to any adjustment required in respect to principal requirements for debt described in the definition of “Balloon Indebtedness” or in the event that the option described in Section 6.4© of the Subordinate Loan Agreement is exercised.]

Principal Payment Date means the Stated Maturity of principal of any Bond and the Sinking Fund Payment Dates for Term Bonds; the Principal Payment Dates for the Series 2025B Bonds shall be May 1 of the years set forth in Sections 3.04 and 3.05(C) hereof, and for any Additional Bonds, the dates established for the regularly scheduled payment of principal thereon in any Supplemental Indenture for the Additional Bonds.

Prior Taxable Debt means the loan to **[the Borrower]** by _____ in the principal amount of \$ _____. Proceeds of the Prior Taxable Debt were used to finance the acquisition of the Land.

Project means the Senior Housing Project and the Day Care Project.

Project Buildings means all Related Facilities, Improvements or buildings now or hereafter located on the Land, as the same may be improved or expanded from time to time, and including all related building service equipment and other fixtures incorporated therein or attached thereto.

[Project Operating Expenses means for any period of calculation all non-capitalized expenses incurred in the operation of the Project, including the aggregate of all operating expenses of the Borrower, calculated in accordance with GAAP.]

Qualified Investments means those obligations and securities set forth in Section 5.14 hereof, in which Trust Money may be invested.

Qualified Project Costs means, with reference to the Project, any and all sums of money required to acquire, construct and install the Project (excluding Costs of Issuance) but including the following:

- (a) the expense of preparation of the Plans and Specifications and of all other architectural, engineering, testing and supervisory services incurred and to be incurred in the planning, construction and completion of the Project;
- (b) the cost of acquisition and installation of all items of fixtures and personalty included in the Project;
- (c) the contract price of all labor, services, materials, supplies, equipment and remodeling furnished under a Construction Contract;
- (d) all expenses incurred in seeking to enforce any remedy against a Contractor, any subcontractor or any surety in respect of any default under any Construction Contract;
- (e) the cost of all other labor, services, materials, supplies and equipment necessary to complete the acquisition, construction and installation of the Project; and

(f) without limitation by the foregoing, all other expenditures (other than Costs of Issuance) which under generally accepted accounting principles constitute necessary capital expenditures for the Project.

Rating Agency means Moody's Investors Service, Inc., S&P Global Ratings, Fitch Ratings Inc., or other national rating agency, or any of them.

Rebate Fund means the fund created in Section 5.10 hereof.

Record Date means the fifteenth day (whether or not a Business Day) of the calendar month immediately preceding each Interest Payment Date.

Redemption Date, when used with respect to any Bond to be redeemed, means the date on which it is to be redeemed pursuant to this Subordinate Indenture.

Redemption Price, when used with respect to any Bond to be redeemed, means par plus accrued interest plus any premium required to be paid upon redemption pursuant to this Subordinate Indenture.

Related Facilities means any structures, buildings or other facilities hereinafter acquired or constructed by the Borrower and located on the Land (excluding the Project) or a parcel of land immediately adjacent to the Project and such parcel(s) becomes subject to the lien of the Mortgage, and used, directly or indirectly, for independent living, skilled nursing, assisted living or memory care purposes.

Repair and Replacement Reserve Fund means the fund created in Section 5.09 hereof.

Reserve Requirement means (a) with respect to the Series 2025B Bonds, \$[_____], and (b) **with respect to a series of Additional Bonds, such additional amounts as are required under Section 4.01 hereof upon the issuance of Additional Bonds. The Reserve Requirement for any Additional Bonds may be satisfied by a combination of one (1) or more of the following: a deposit of cash or Qualified Investments, the proceeds of Bonds or a guaranty of payment and deposit of the Reserve Requirement as determined in the sole discretion of the Original Purchaser for any series of Additional Bonds in accordance with Section 4.01 hereof. [TO BE DISCUSSED]**

Responsible Officer, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers, and shall also mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Subordinate Indenture.

Senior Bonds means the Series 2025A Bonds and the Series 2025A-T Bonds.

Senior Housing Project means the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on the Land. The Senior Housing Project will be owned and operated by the Borrower.

Senior Indenture means the Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee, as the same may from time to time be amended or supplemented in accordance with the provisions thereof under which the Series 2025A Bonds and Series 2025A-T Bonds are issued and secured.

Serial Bonds means Bonds which are not Term Bonds.

Series 2025A Bonds means the Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A, issued by the Issuer in the original aggregate principal amount of \$[Par A] under and secured by the Senior Indenture.

Series 2025A-T Bonds means the Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T, issued by the Issuer in the original aggregate principal amount of \$[Par A-T] under and secured by the Senior Indenture.

Series 2025B Bonds means the Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B, issued by the Issuer in the original aggregate principal amount of \$[Par B] under and secured by this Subordinate Indenture.

Series 2025B Bonds Account means the account by such name established in the Debt Service Reserve Fund.

[Short-Term Indebtedness means any Indebtedness incurred, assumed or guaranteed by the Borrower maturing not more than three hundred sixty-five (365) days after it is incurred and not by its terms renewable or extendable at the option of the Borrower, but shall not include Interim Indebtedness, Other Indebtedness, trade accounts payable, accrued payroll or payroll taxes.]

Sinking Fund Payment Date means the dates set forth in Section 3.05(C) hereof (as to the Series 2025B Bonds) or any applicable provision of a Supplemental Indenture (as to any series of Additional Bonds) for the making of mandatory principal payments for Term Bonds.

Sole Member means The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and a Tax-Exempt Organization, its successors and assigns.

Special Record Date has the meaning set forth in Section 2.09 hereof.

State means the State of Minnesota.

Stated Maturity when used with respect to any Bond, means the date specified in such Bond as the fixed date on which the entire Outstanding principal amount of such Bond is due and payable.

Subordinate Guaranty means the Guaranty Agreement, dated as of April 1, 2025, by and between the Sole Member and the Trustee as the same may be amended or supplemented from time to time.

Subordinate Indebtedness means the Series 2025B Bonds and any Additional Bonds issued under this Subordinate Indenture.

Subordinate Indenture means this Subordinate Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee, as the same may from time to time be amended or supplemented in accordance with the provisions hereof.

Subordinate Loan Agreement means the Subordinate Loan Agreement, dated as of April 1, 2025, between the Issuer and the Borrower, as the same may be from time to time amended or supplemented in accordance with the provisions thereof and hereof.

Subordinate Mortgage means the Subordinate Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025, by the Borrower in favor of the Trustee, as the same may from time to time be amended or supplemented in accordance with the provisions thereof and hereof.

Supplemental Indenture means any indenture supplemental to this Subordinate Indenture entered into pursuant to Article X hereof.

Taxes and Insurance Escrow Fund means the fund created in Section 5.12 hereof.

Tax-Exempt Bonds means the Series 2025B Bonds and any Additional Bonds or Indebtedness issued as obligations the interest on which is intended to be excluded from gross income for federal income tax purposes.

Tax-Exempt Organization means an organization described or treated as described in Section 501(c)(3) of the Code whose income is exempt from taxation under Section 501(a) of the Code, or any successor provisions.

Term Bonds means those Bonds of a single Stated Maturity in a principal amount which this Subordinate Indenture or any Supplemental Indenture provides must be redeemed prior to their Stated Maturity from sinking fund payments the Subordinate Loan Agreement requires the Borrower to make for such purpose.

Title Company means Guaranty Commercial Title, Inc., a Minnesota corporation, its successors and assigns.

Treasury Regulations means the Treasury Regulations promulgated under the Code.

Trust Estate has the meaning specified in the Granting Clauses of this Subordinate Indenture.

Trust Funds mean all of the funds and accounts created pursuant to this Subordinate Indenture, except the Rebate Fund.

Trust Money has the meaning stated in Section 5.01 hereof.

Trustee means U.S. Bank Trust Company, National Association, Saint Paul, Minnesota, and any successor Trustee under this Subordinate Indenture.

UCC means the Uniform Commercial Code in effect in the State.

Unrelated Improvements means any fixtures, structures, land or other facilities, including any machinery, equipment or fixtures necessary in connection therewith, acquired or constructed by the Borrower not on the Land but on land in the City which becomes subject to the lien of the Mortgage.

Variable Rate Indebtedness means any portion of Indebtedness the interest rate on which varies periodically such that the interest rate at a future date cannot accurately be calculated.

Working Capital Fund means the fund created in Section 5.11 hereof.

Section 1.02. Construction. For all purposes of this Subordinate Indenture, except as otherwise expressly provided or unless the context clearly otherwise requires:

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

(B) The words “herein,” “hereof,” and “hereunder,” and other words of similar import, without reference to any particular Article, Section or subdivision, refer to this Subordinate Indenture as a whole and not to any particular Article, Section or other subdivision.

(C) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP.

(D) All computations herein provided for shall be made in accordance with GAAP.

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ARTICLE II

THE BONDS

Section 2.01. Title. The title of the Series 2025B Bonds is set forth in Section 3.01 hereof, and the title of each series of Additional Bonds shall be specified in a Supplemental Indenture.

Section 2.02. General Limitations; Issuable in Series.

(A) The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Subordinate Indenture is not limited, except as provided in Articles III and IV hereof and except as may be limited by law.

(B) The Bonds may be issued in such series as from time to time are authorized by an Issuer Resolution.

(C) The Bonds are special, limited obligations of the Issuer. Principal of, premium, if any, and interest on the Bonds are payable solely out of the revenues derived from the Loan Agreement (other than to the extent payable out of proceeds of the Bonds, amounts in the Trust Funds, Net Proceeds, or from funds realized from the sale or other disposition of the Mortgaged Property or under the terms of any Collateral Document). Neither the Issuer nor the State shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer. Neither the Bonds nor any of the agreements or obligations of the Issuer contained herein or in the Subordinate Loan Agreement shall be construed to constitute an indebtedness of the State or the Issuer within the meaning of any constitutional or statutory provisions whatsoever. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer and the Bonds are not secured by a pledge of the full faith and credit or taxing power of the Issuer, the State or any political subdivision thereof. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

(D) With respect to the Bonds of any particular series, the Issuer may incorporate in or add to the general title of such Bonds any words, letters or figures designed to distinguish that series. Unless otherwise provided with respect to any particular series of Bonds, the Bonds of each series shall be dated as of their date of authentication.

(E) If the Stated Maturity of any Bond or if any Interest Payment Date, Redemption Date or Sinking Fund Payment Date shall not be a Business Day, then the payment of principal, premium, or interest due on such date may be made on the next succeeding Business Day, with the same force and effect as if made on the Stated Maturity, Interest Payment Date, Redemption Date or Sinking Fund Payment Date, and without additional interest accruing thereon for the period after such Stated Maturity, Interest Payment Date, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

Section 2.03. Terms of Particular Series. Each series of Bonds (except the Series 2025B Bonds, which are created by Article III hereof) shall be created by a Supplemental Indenture authorized by an Issuer Resolution. The Bonds of each series (other than the Series 2025B Bonds, as to which specific provision is made in this instrument) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Indenture creating that series. The Issuer may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain, provision for:

- (A) a sinking, amortization, improvement or other analogous fund;
- (B) limiting the aggregate principal amount of the Bonds of that series; and/or
- (C) exchanging Bonds of that series, at the option of the Holders thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind and/or authorized denomination or denominations;

all upon such terms as the governing body of the Issuer may determine by Issuer Resolution. All Bonds of the same series shall be substantially identical except as to denomination, the differences specified herein or in a Supplemental Indenture between interest rates, Stated Maturities and redemption provisions.

Section 2.04. Form and Denominations.

(A) The form of the Bonds of each series (other than the Series 2025B Bonds, as to which specific provisions are made in this instrument) shall be established by the provisions of the Supplemental Indenture creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the governing body of the Issuer may determine by Issuer Resolution.

(B) The Bonds of each series shall be issuable in fully registered form in such denominations as shall be provided in the provisions of the Supplemental Indenture creating such series (other than the Series 2025B Bonds, as to which specific provisions are made in this instrument). In the absence of any other provision with respect to the Bonds of any particular series, the Bonds of such series shall be in Authorized Denominations.

Section 2.05. Execution, Authentication and Delivery.

(A) Each Bond shall be executed on behalf of the Issuer by the officers of the Issuer specified in an Issuer Resolution. The signature of any Issuer officer may be manual or facsimile, if permitted by applicable law. The seal of the Issuer may be omitted, if permitted by applicable law.

(B) Bonds bearing the signatures of individuals who were at any time the proper officers of the Issuer shall bind the Issuer, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Bonds or did not hold such offices at the date of such Bonds.

(C) At any time and from time to time after the execution and delivery of this Subordinate Indenture, the Issuer may deliver Bonds executed by the proper officers of the Issuer to the Trustee for authentication, and the Trustee shall authenticate and deliver such Bonds as in this Subordinate Indenture provided and not otherwise.

(D) No Bond shall be secured by, or entitled to any lien, right or benefit under, this Subordinate Indenture or be valid or obligatory for any purpose, unless there appears on such Bond either the manual signature of at least one (1) officer of the Issuer or a certificate of authentication substantially in the form provided for herein executed by a representative of the Trustee by manual signature, and such certificate or manual signature of at least one (1) officer of the Issuer upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly authenticated and/or delivered hereunder. Authentication certificates on different Bonds need not be signed by the same representative of the Trustee.

Section 2.06. [Reserved].

Section 2.07. Registration, Transfer and Exchange.

(A) The Issuer shall cause to be kept at the principal corporate trust office of the Trustee a register (the "Bond Register") in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Bonds of all series and of transfers of Bonds of all series. The Trustee is hereby appointed bond registrar, authenticating agent paying agent and transfer agent for the Bonds (the "Bond Registrar") for the purpose of registering Bonds and transfers of Bonds as herein provided.

(B) Upon surrender for transfer of any Bond at the office of the Bond Registrar, the Issuer shall execute, and the Trustee shall authenticate, if required, and deliver, in the name of the designated transferee or transferees, one (1) or more new Bonds of the same series, of any authorized denomination or denominations, of like aggregate principal amount and having the same Stated Maturity and interest rate.

(C) At the option of the Holder, Bonds may be exchanged upon surrender thereof at the principal corporate trust office of the Trustee, for other Bonds of the same series, Stated Maturity and interest rate of a like aggregate principal amount and redemption privilege, of any authorized denomination or denominations, as requested by the Holder surrendering the same. The appropriate officials of the Issuer will execute, and the Trustee shall authenticate, if required, and deliver, Bonds required for any such exchange.

(D) All Bonds surrendered upon any exchange or transfer provided for in this Subordinate Indenture shall be promptly canceled by the Trustee and thereafter disposed of in accordance with Section 2.11 hereof.

(E) All Bonds issued upon any transfer or exchange of Bonds shall be the valid obligations of the Issuer evidencing the same debt, and entitled to the same security and benefits under this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage and any Collateral Document, as the Bonds surrendered upon such transfer or exchange.

(F) Every Bond presented or surrendered for transfer or exchange shall (unless the requirement is waived by the Issuer and the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Bond Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing.

(G) No service charge shall be made for any registration, transfer or exchange herein provided for, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of the Bonds, other than exchanges under Section 3.05 hereof not involving any transfer.

(H) The Issuer shall not be required (i) to issue, transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing a notice of redemption of Bonds selected for redemption and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Bond selected for redemption in whole or in part.

(I) Subject to the foregoing provisions of this Section, each Bond delivered under this Subordinate Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.08. Mutilated, Destroyed, Lost and Stolen Bonds.

(A) If (i) any mutilated Bond is surrendered to the Trustee, or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Bond and (ii) there is delivered to the Trustee such security or indemnity as may be required by the Trustee to save the Issuer, the Trustee and the Borrower harmless, then, in the absence of notice to the Trustee that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and upon its request the Trustee shall authenticate, if required, and deliver, in exchange for or in lieu of such mutilated, destroyed, lost or stolen Bond, a new Bond of the same series and of like tenor, principal amount, Stated Maturity and interest rate.

(B) In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Bond, pay such Bond.

(C) Upon the issuance of any new Bond under this Section 2.08, the Trustee or the Issuer, as the case may be, may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee and the Issuer) connected therewith.

(D) Every new Bond issued pursuant to this Section 2.08 in lieu of any destroyed, lost or stolen Bond shall constitute an original additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage, and any Collateral Document equally and proportionately with any and all other Bonds hereby secured.

(E) The provisions of this Section 2.08 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds.

Section 2.09. Payment of Principal and Interest; Payment Rights Preserved.

(A) Interest on any Bond which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Bond (or one (1) or more predecessor Bonds) is registered at the close of business on the Record Date for such interest.

(B) Defaulted Interest shall forthwith cease to be payable to the registered Holder on the relevant Record Date by virtue of having been such Holder; and such Defaulted Interest shall be paid to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner (a "Special Record Date"). The Borrower shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Borrower shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory

to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Section provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) or less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Borrower of such Special Record Date and, in the name and at the expense of the Borrower, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Bondholder at his address as it appears in the Bond Register, not less than ten (10) days prior to such Special Record Date. The Trustee may, in its discretion, in the name and at the expense of the Borrower, cause a similar notice to be published in a newspaper, but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered on such Special Record Date.

(C) Payment of the principal of and premium, if any, on any Bonds when due, whether upon maturity, redemption, acceleration or otherwise, will be made to the Bondholder at the principal trust office of the Trustee upon presentation and surrender of the Bonds to be paid; provided, however, presentation shall not be required in connection with any sinking fund payments. Payment of interest on any Bond will be made to a Bondholder without the necessity of surrendering the Bond on which payment is being made (i) by check mailed by first-class mail by the Trustee to the Bondholder at the address of the Bondholder shown in the registration books maintained by the Trustee or (ii) by wire transfer to any bank in the continental United States for a Bondholder of \$1,000,000 or more in aggregate principal amount of Bonds who, by written request delivered to the Trustee no later than the Record Date for the payment, has requested the Trustee to make any payments of interest due to it by wire transfer at a specified wire transfer address (which request needs to be given only once unless the Bondholder wishes to change the wire transfer address). All payments of the principal of, premium, if any, and interest on any Bonds will be made in lawful money of the United States of America.

Section 2.10. Persons Deemed Owners. The Issuer, the Trustee and any other agent of the Issuer may treat the Person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of (and premium, if any), and interest on, such Bond and for all other purposes whatsoever whether or not such Bond be overdue, and neither the Issuer, the Trustee nor any other agent of the Issuer shall be affected by notice to the contrary.

Section 2.11. Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange shall be promptly canceled. The Issuer or the Borrower may at any time deliver to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder which the Issuer or the Borrower may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled and destroyed by the Trustee in accordance with its then current record retention policy and a certificate of destruction furnished to the Issuer upon written request.

Section 2.12. Book-Entry System. The Bonds shall be initially issued in Book-Entry Form by delivering to the Depository one (1) typed executed and authenticated Bond for each stated maturity of the each series of the Bonds, registered to Cede & Co., and by entering into the Letter of Representations, if not previously entered into. While the Bonds remain issued in Book-Entry Form, the provisions of this Subordinate Indenture which conflict with the operation of the Book-Entry System shall not apply, and the provisions of the Letter of Representations and the Operational Arrangements referenced therein relating to such Book-Entry System and the following provisions shall prevail.

(A) Registration, Recording and Transfer of Ownership. The Depository (or its nominees) shall be and remain recorded on the registration records maintained by the Trustee as the Holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from a Depository to another (or its nominee) or except to terminate the Book-Entry Form. All Bonds of each series and stated maturity in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of the Depository (or its nominee); provided, however, that upon termination of the Book-Entry Form with respect to any series of Bonds pursuant to the Letter of Representations or as otherwise directed by written notice from the Borrower to the Issuer, Trustee and Depository, the Issuer shall, upon delivery of all Bonds of the series from the Depository, promptly execute, and the Trustee shall thereupon authenticate and deliver, Bonds to all persons who were Beneficial Owners thereof immediately prior to such termination; and the Trustee shall register such Beneficial Owners as Holders of the applicable Bonds. The Trustee, as bond registrar and paying agent, shall maintain accurate books and records of the principal balance, if any, of each such Outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a Predecessor Bond, the Trustee shall designate thereon the principal balance remaining on such Bond according to the Trustee's books and records.

(B) Notices. The Trustee shall give notice to the Depository of such matters and at such times as are required by the Depository and the Letter of Representations in connection with the Bonds. All notices of any nature required or permitted under this Subordinate Indenture to be delivered to a Holder of a Bond in Book-Entry Form shall be transmitted to Beneficial Owners of such Bonds at such times and in such manner as shall be determined by the Depository and the Participants in accordance with the Book-Entry System and Letter of Representations.

(C) Payments. All payments of principal and purchase price of, premium, if any, and interest on Bonds while in Book-Entry Form shall be paid to the Depository in accordance with the Book-Entry System and Letter of Representations in same day funds by wire transfer. All payments of principal and purchase price of, premium, if any, and interest on any Bonds in Book-Entry Form due Beneficial Owners shall be made at such times and in such manner as shall be determined by the Depository and the Participants in accordance with the Book-Entry System and Letter of Representations.

(D) Limitations on Liability. With respect to Bonds in Book-Entry Form, and any Beneficial Owners thereof, except as expressly provided to the contrary in this Subordinate Indenture, the Issuer and the Trustee shall have no responsibility, liability or obligation of any nature whatsoever with respect to (i) the non-payment to any Beneficial Owner or any other person, other than the Depository, of any amount due for principal or interest; (ii) the failure to give any notice or other information to the applicable Beneficial Owner; (iii) the inaccuracy of the records of the Depository or any Participant, or (iv) the failure in any manner of the Depository or any Participant to timely or properly comply with procedures or requirements of the Book-Entry System. No such payment, failure or inaccuracy shall cause an Event of Default under the Subordinate Indenture.

Section 2.13. Termination of Book-Entry Only System. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Borrower, the Trustee and the Issuer and discharging its responsibilities with respect thereto under applicable law. The Borrower may terminate the services of DTC with respect to the Bonds, with the prior written consent of the Issuer, if it determines that DTC is no longer able to carry out its functions as security depository as contemplated in this Subordinate Indenture.

Upon the termination of the services of DTC as provided in the preceding paragraph, the Borrower shall take all reasonable and diligent steps as may be necessary to find an alternate book-entry depository, but if (and only if) no such substitute securities depository willing to undertake the functions of DTC under

this Subordinate Indenture can be found which, in the opinion of the Borrower, is willing and able to undertake such functions upon reasonable or customary terms, then the Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owner shall designate at that time, in accordance with Section 2.07 hereof. To the extent that the Beneficial Owners are designated as the transferee by the Owner, in accordance with Section 2.07 the Bonds will be delivered in appropriate form, content and Authorized Denomination to the Beneficial Owners.

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ARTICLE III

THE SERIES 2025B BONDS

Section 3.01. Specific Title and Terms of the Series 2025B Bonds. There is hereby created and there shall be a series of Bonds entitled “City of Brainerd, Minnesota Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B.” The Series 2025B Bonds shall be substantially in the form set forth in EXHIBIT A attached hereto and shall be dated and delivered on the Closing Date, as the date of original issue. The Series 2025B Bonds shall be issued in fully registered form in Authorized Denominations.

Section 3.02. Interest Payment Dates. The Series 2025B Bonds shall bear interest from their dated date or from the most recent Interest Payment Date to which interest has been duly paid or provided for, payable semiannually on May 1 and November 1 (each an “Interest Payment Date”), commencing [November 1, 2025].

Section 3.03. Interest Calculations; Payments of Principal and Interest. Interest on the Series 2025B Bonds shall be calculated on the basis of a three hundred sixty (360) day year with twelve (12) thirty (30) day months and rounded according to the rules of the Municipal Securities Rulemaking Board. The principal of and premium, if any, on the Series 2025B Bonds shall be paid upon the presentation and surrender thereof at the principal corporate trust office of the Trustee. Interest on the Series 2025B Bonds which is payable, and is punctually paid on any Interest Payment Date shall be paid by check or draft drawn upon the Trustee and mailed to the Persons in whose name the Series 2025B Bonds are registered as of the close of business on the Record Date for such Interest Payment Date at the address of such Holders as they appear on the Bond Register.

Section 3.04 Principal Amount, Stated Maturities and Interest Rates of Series 2025B Bonds. The Series 2025B Bonds shall be issued in the original aggregate principal amount of \$[Par B] and shall mature on the dates and bear interest at the interest rates per annum, according to the Stated Maturities of the Series 2025B Bonds as set forth below:

<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
20[]*	\$(Par B)	[]%

* Term Bond.

Section 3.05. Redemption of Series 2025B Bonds.

(A) Optional Redemption. The Series 2025B Bonds maturing on and after May 1, 20[] are subject to redemption at the option of the Borrower, evidenced by Borrower Request, on May 1, 20[], and on any date thereafter, in whole or in part and in compliance with Article XII hereof, and if in part as provided in Section 12.04(A) hereof, at an amount equal to the principal amount of the Series 2025B Bonds so redeemed together with interest accrued on the principal amount to be redeemed to the Redemption Date, plus a premium (expressed as a percentage of the principal amount of the Series 2025B Bonds so redeemed) set forth below:

<u>Redemption Date</u>	<u>Redemption Premium</u>
May 1, 20__ through April 30, 20__	%
May 1, 20__ through April 30, 20__	
May 1, 20__ and thereafter	

(B) Extraordinary Redemption. The Series 2025B Bonds are subject to extraordinary redemption on any Business Day in whole, or in part, at a redemption price equal to par, plus accrued interest to the redemption date, if certain events of damage to or destruction or condemnation of any of the Project occur.

(C) Mandatory and Scheduled Sinking Fund Redemption. The Series 2025B Bonds are subject to mandatory sinking fund redemption on the following Principal Payment Dates and in the following principal amounts at a redemption price equal to the principal amount of the Series 2025B Bonds to be so redeemed plus accrued interest to the redemption date, as set forth below, on each such date to the extent that Series 2025B Bonds have not been redeemed other than pursuant to this Section 3.05(C):

Series 2025B Term Bonds Maturing on May 1, 20[__]

<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>	<u>Principal Payment Date (May 1)</u>	<u>Principal Amount</u>
20[__]	\$ _____	20[__]	\$ _____

* Maturity.

(i) The Trustee shall select and call for redemption, in accordance with Article XII hereof, from the Term Bonds the amounts specified above, and the Term Bonds selected by the Trustee shall become due and payable on such date. The Borrower may, in accordance with the option set forth in Section 8.1 of the Subordinate Loan Agreement, reduce the amount of any Mandatory Sinking Fund Payment payable on any Sinking Fund Payment Date by an amount equal to the principal amount of Outstanding Term Bonds then to be redeemed that shall be surrendered uncanceled by the Borrower to the Trustee, provided that the Borrower shall have surrendered such

Term Bonds to the Trustee not less than forty-five (45) days prior to such Sinking Fund Payment Date, together with a Borrower Certificate stating its election to use such Term Bonds for such purpose. In such case, the Trustee shall reduce the amount of Term Bonds to be redeemed on the Sinking Fund Payment Date specified in such Borrower Certificate by the principal amount of Term Bonds so surrendered by the Borrower.

(ii) If Term Bonds are redeemed at the option of the Borrower pursuant to this Section 3.05, the Term Bonds so optionally redeemed may, at the option of the Borrower, be applied as a credit against any subsequent Mandatory Sinking Fund Payment with respect to Term Bonds otherwise to be redeemed thereby, such credit to be equal to the principal amount of such Term Bonds redeemed pursuant to this Section 3.05, provided that the Borrower shall have delivered to the Trustee not less than forty-five (45) days prior to such Sinking Fund Payment Date a Borrower Certificate stating its election to apply such Term Bonds as such a credit. In such case, the Trustee shall reduce the amount of Term Bonds to be redeemed on the Sinking Fund Payment Date specified in such Borrower Certificate by the principal amount of Term Bonds so redeemed pursuant to this Section 3.05.

(iii) Any credit given to Mandatory Sinking Fund Payments pursuant to this Section 3.05 shall not affect any subsequent Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in this Section 3.05, unless and until another credit is given in accordance with the provisions hereof.

(iv) Any Supplemental Indenture authorizing the issuance of Additional Bonds may provide for a similar mandatory redemption with regard to such Additional Bonds issued thereunder; and, in so doing, may provide that money to be used for such mandatory redemption is to be deposited in the Debt Service Fund or may create a similar fund or account for such purpose.

(D) Redemption upon a Determination of Taxability. The Series 2025B Bonds are also subject to mandatory redemption upon the occurrence of a Determination of Taxability with respect to the Series 2025B Bonds. In such event, each of the Outstanding Series 2025B Bonds shall be subject to mandatory redemption and shall be redeemed on the first Business Day for which notice can be duly given under this Subordinate Indenture after the Borrower receives notice that a Determination of Taxability has occurred, and the Borrower shall cause notice thereof to be given to the Holders of the Series 2025B Bonds, as more fully provided in Section 4.8 of the Subordinate Loan Agreement, at a redemption price equal to par, plus accrued interest.

(E) General Provisions. The Series 2025B Bonds shall be redeemed in accordance with Article XII hereof. Notice of any such redemption of Series 2025B Bonds, including Serial Bonds and Term Bonds, shall be mailed in the form provided by Section 12.05 hereof and in the manner and to the extent required by Article XII hereof. Deposit of the Redemption Price shall be in accordance with Section 12.06 hereof. Upon the happening of the above conditions, any Bonds thus called and for which such money has been deposited with or are held by the Trustee shall not bear interest after the redemption date, and except for the purpose of payment by application of the funds so deposited, shall no longer be secured by this Subordinate Indenture.

Section 3.06. Authentication and Delivery of Series 2025B Bonds. The Series 2025B Bonds may forthwith upon the execution and delivery of this Subordinate Indenture, or from time to time thereafter, be executed by the proper officials of the Issuer and delivered to the Trustee for authentication, and shall thereupon be authenticated and delivered by the Trustee, but only upon receipt by the Trustee of the following:

(A) an Issuer Resolution authorizing the issuance and sale of the Series 2025B Bonds and the execution and delivery of the Subordinate Loan Agreement, this Subordinate Indenture, the BQ Fee Agreement, the Series 2025B Bonds, and the Bond Purchase Agreement;

(B) a Borrower Resolution authorizing the execution and delivery of the Borrower Documents and approving the terms of the Series 2025B Bonds set forth in this Subordinate Indenture and the borrowing of the proceeds of the Series 2025B Bonds;

(C) an original executed counterpart of this Subordinate Indenture, the BQ Fee Agreement, the Series 2025B Bonds, the Borrower Documents and the Subordinate Guaranty;

(D) **[the Letter of Credit has been delivered to the Trustee in a form acceptable to the Original Purchaser;]**

(E) an Issuer Request which requests the Trustee to authenticate the Series 2025B Bonds, authorizes the Trustee to deliver the Series 2025B Bonds so authenticated to or at the direction of the Original Purchaser therein identified upon payment to the Trustee, but for the account of the Issuer, of a sum specified in such Issuer Request and directs the Trustee as to the disposition of the proceeds of the Series 2025B Bonds (together with the funds contributed by or on behalf of the Borrower) to the various funds and accounts established hereunder as set forth in Section 3.07 hereof; and

(F) an opinion of Bond Counsel as to the valid issuance of the Series 2025B Bonds and as to the tax-exempt status of interest on the Series 2025B Bonds.

Section 3.07. Deposit of Series 2025B Bond Proceeds. The Issuer shall deposit with the Trustee all of the net proceeds of the sale of the Series 2025B Bonds, and the Trustee shall transfer or credit such proceeds (together with the funds contributed by or on behalf of the Borrower) to the funds and accounts specified in Section 5.02 hereof and the Issuer Request described in Section 3.06(D) hereof.

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ARTICLE IV

AUTHENTICATION AND DELIVERY OF ADDITIONAL BONDS

Section 4.01. General Provisions.

(A) In addition to the Series 2025B Bonds, whose authentication and delivery is provided for in Article III hereof, without the consent of a majority of the Holders of the Bonds, Additional Bonds may at any time and from time to time be executed by the Issuer and delivered to the Trustee for authentication, but only upon receipt by the Trustee of the following:

(i) an Issuer Resolution authorizing the issuance of the Additional Bonds and the sale thereof to the purchaser or purchasers named therein for the purchase price set forth therein;

(ii) an Issuer Order directing the authentication of such Additional Bonds and the delivery thereof to or upon the order of the purchaser or purchasers named therein upon payment of the purchase price set forth therein;

(iii) a Borrower Certificate requesting the issuance of such Additional Bonds, stating that no default has occurred under the Subordinate Loan Agreement or the loan agreement for the Senior Bonds which has not been cured, that the Additional Bonds to be authenticated have not theretofore been issued and that all conditions precedent provided for in this Section 4.01 relating to the authentication and delivery of such Additional Bonds have been complied with;

(iv) a Borrower Certificate, Opinion of Counsel, and as applicable, a report of an Accountant required by Section 6.3 of the Subordinate Loan Agreement, demonstrating the ability of the Borrower to incur the Indebtedness underlying or evidenced by such Additional Bonds;

(v) an Opinion of Counsel stating that all conditions precedent provided in this Subordinate Indenture relating to the authentication and delivery of such Additional Bonds have been complied with;

(vi) an Opinion of Bond Counsel stating that (A) the Additional Bonds whose authentication and delivery are then applied for, when issued and executed by the Issuer and authenticated and delivered by the Trustee, will be the valid and binding special, limited obligations of the Issuer in accordance with their terms and entitled to the benefits of and secured by the lien of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage and any Collateral Document equally and ratably with all Outstanding Bonds; and (B) the issuance of such Additional Bonds will not affect the tax-exempt nature for federal income tax purposes of any Tax-Exempt Bonds then Outstanding;

(vii) an executed counterpart of the Supplemental Indenture providing the terms of such Additional Bonds;

(viii) if required by the Original Purchaser of the series of Additional Bonds, a deposit to a new account in the Debt Service Reserve Fund for such Additional Bonds in the amount of the Reserve Requirement for such Additional Bonds as determined by the Original Purchaser, if any, provided that the Reserve Requirement shall not exceed the size limitations set forth in Section 1.148-2(f)(2)(ii) of the Treasury Regulations.;

(ix) an executed counterpart of an amendment to the Subordinate Loan Agreement providing for additional Loan Repayments sufficient to provide for the payment of principal, premium, if any, and interest on all Bonds to be Outstanding after the issuance of such series of Additional Bonds, and providing for Additional Payments if deemed necessary;

(x) the Issuer Resolution authorizing the execution and delivery of the Supplemental Indenture, the amendment to the Subordinate Loan Agreement and such Additional Bonds;

(xi) executed counterparts of amendments or supplements to the Subordinate Mortgage and any Collateral Document, unless in the Opinion of Counsel none is required, subjecting to the lien thereof all property acquired or to be acquired from the proceeds of such Additional Bonds, and required by the provisions of this Subordinate Indenture to be so subjected;

(xii) a Borrower Resolution authorizing the execution and delivery of the amendment to the Subordinate Loan Agreement, the amendment or supplement to the Subordinate Mortgage, if any, and any Collateral Document and approving the terms of the Additional Bonds;

(B) Any Additional Bonds shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate, if any, permitted by law, shall have Stated Maturities, and may be subject to redemption prior to their Stated Maturities at such times and prices and on such terms and conditions (in addition to those specified in Article X hereof), all as may be provided by the Supplemental Indenture authorizing their issuance. All Additional Bonds shall be payable and secured equally and ratably and on a parity with the Series 2025B Bonds and any Additional Bonds theretofore issued, entitled to the same benefits and security of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage, and any Collateral Documents.

(C) Additional Bonds may only be issued to finance the activities identified in the first paragraph of Section 6.3 of the Subordinate Loan Agreement.

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ARTICLE V

APPLICATION OF TRUST MONEY

Section 5.01. “Trust Money” Defined. All money received by the Trustee (collectively, the “Trust Money”),

(A) upon the release of property from the lien of the Subordinate Loan Agreement, the Subordinate Mortgage, any Collateral Document or this Subordinate Indenture;

(B) as compensation for, or proceeds of sale of, any part of the Project taken by eminent domain or purchased by, or sold pursuant to an order of, a governmental authority or otherwise disposed of;

(C) as proceeds of insurance upon any part of the Project;

(D) as elsewhere herein provided to be held and applied under this Article V, or required to be paid to the Trustee and whose disposition is not elsewhere herein otherwise specifically provided for, including, but not limited to the investment income of all funds and accounts held by the Trustee under this Subordinate Indenture, other than amounts held in the Rebate Fund;

(E) as proceeds from the sale of the Series 2025B Bonds and any Additional Bonds;

(F) all amounts received under the Subordinate Guaranty; or

(G) as Loan Repayments, or (except as provided in Section 5.13 hereof) as otherwise payable under the Subordinate Loan Agreement,

shall be held by the Trustee as a part of the Trust Estate, and, upon the exercise by the Trustee of any remedy specified in Article VII hereof, such Trust Money shall be applied in accordance with Section 7.04 hereof, except to the extent that the Trustee is holding in trust money and/or Government Obligations for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article VI hereof, which money and/or Government Obligations shall be applied only as provided in said Article VI. Prior to the exercise of any such remedy, all or any part of the Trust Money shall be held, invested, withdrawn, paid or applied by the Trustee, from time to time, as provided in this Article V and in Article VI hereof.

All Trust Money shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer, the Trustee or the Borrower. Such Trust Money shall be held in trust and applied in accordance with the provisions of this Subordinate Indenture. All Trust Money, for any legal, tax or other purpose, shall be considered funds of the Borrower, although subject to the security interest of the Trustee imposed by this Subordinate Indenture.

Section 5.02. Deposit of Series 2025B Bond Proceeds and Borrower Funds. On the Closing Date of the Series 2025B Bonds, the proceeds of the sale of the Series 2025B Bonds in the amount of \$[_____] (par amount of the Series 2025B Bonds of \$[Par B].00, plus original issue premium of \$_____, less original issue discount of \$_____, less an underwriter’s discount of \$_____), plus equity of the Borrower in the amount of \$_____ shall be deposited by the Trustee as follows:

(A) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Construction Fund;

(B) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Capitalized Interest Fund;

(C) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Costs of Issuance Fund;

(D) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Series 2025B Account of the Debt Service Reserve Fund as the Reserve Requirement for the Series 2025B Bonds;

(E) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Debt Service Fund;

(F) proceeds of the Series 2025B Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be immediately transferred to _____, as the holder of the Prior Taxable Debt, to redeem and prepay the Prior Taxable Debt on _____, 2025;

(G) equity of the Borrower in the amount of \$_____ shall be deposited in the Working Capital Fund; and

(H) proceeds of the Series 2025A Bonds in the amount of \$_____, and equity of the Borrower in the amount of \$_____ shall be deposited in the Taxes and Insurance Escrow Fund.

Section 5.03. Construction Fund. A special trust fund is hereby established with the Trustee and designated the “Construction Fund.” On the Closing Date of the Bonds, the Trustee shall credit to the Construction Fund the amount set forth in Section 5.02 hereof. Any money received by the Trustee from or on behalf of the Borrower for payment of Qualified Project Costs and identified as such shall be credited to the Construction Fund. In addition, certain amounts may be transferred to the Trustee for deposit in the Construction Fund in accordance with the BQ Fee Agreement. **[Money in the Construction Fund shall be disbursed for Qualified Project Costs prior to the disbursement by the Trustee of any funds in the construction fund established pursuant to the Senior Indenture for the Series 2025A Bonds and the Series 2025A-T Bonds.]**

All money in the Construction Fund shall be held by the Trustee in trust and, subject to the provisions of this Section 5.03 and the Disbursing Agreement, shall be applied to the payment of Qualified Project Costs, and pending such application, shall be subject to a lien and charge in favor of the Holders of the Outstanding Bonds.

For purposes of complying with the requirements of this Section, the Trustee shall conclusively rely and shall be protected in acting or refraining from acting upon the Disbursement Request of the Borrower, which may be submitted by facsimile. The Trustee shall not be bound to make an investigation into the facts or matters stated in any Disbursement Request of the Borrower and shall have no duty or obligation to confirm that any requested disbursements constitute Qualified Project Costs. The Trustee shall not be responsible for determining whether the funds on hand in the Construction Fund are sufficient to complete the Project. The Trustee shall not be responsible to collect lien waivers.

If the Trustee has accelerated the Bonds in accordance with Section 7.02 and has accelerated the Loan Repayments in accordance with the provisions of Section 9.2 of the Subordinate Loan Agreement, the Trustee shall immediately transfer any amounts remaining in the Construction Fund to the Debt Service Fund to be applied in accordance with the provisions of Article VII hereof.

All income derived from the investment of amounts in the Construction Fund, after payment of any unpaid Trustee's fees, shall remain in the Construction Fund.

On the Completion Date of the Project, after payment of all Qualified Project Costs relating thereto, any balance remaining in the Construction Fund shall be transferred to the Debt Service Fund.

Section 5.04. Costs of Issuance Fund. A special trust fund is hereby established with the Trustee and designated the "Costs of Issuance Fund." On the Closing Date of the Series 2025B Bonds, the Trustee shall credit to the Costs of Issuance Fund the amount set forth in Section 5.02 hereof for the payment of Costs of Issuance of the Series 2025B Bonds and for a payment of a portion of the Original BQ Payment (as defined in and described in the BQ Fee Agreement). Upon receipt by the Trustee of a written request of the Borrower, from time to time, amounts in the Costs of Issuance Fund shall be withdrawn and paid to the persons designated by the Borrower for payment of Costs of Issuance. The Trustee shall have no duty or obligation to confirm that any such requested disbursements constitute Costs of Issuance. Any amounts remaining in the Costs of Issuance Fund on _____, 2025, shall be transferred to the Debt Service Fund and applied to payment of the Series 2025B Bonds. All investment income from amounts in the Costs of Issuance Fund shall be upon receipt immediately transferred by the Trustee to the Debt Service Fund. A Supplemental Indenture delivered in connection with the issuance of Additional Bonds may provide for additional Costs of Issuance Funds for such series of Additional Bonds.

Section 5.05. Debt Service Fund. A special trust fund is hereby established with the Trustee and designated the "Debt Service Fund." On the Closing Date of the Series 2025B Bonds, there shall be deposited in the Debt Service Fund the amount set forth in Section 5.02 hereof.

(A) Loan Repayments paid to the Trustee by the Borrower under Section 4.2 of the Subordinate Loan Agreement and funds transferred from the Capitalized Interest Fund pursuant to Section 5.08 hereof shall be deposited in the Debt Service Fund, together with any other amounts permitted to be deposited therein on behalf of the Borrower and delivered to or transferred by the Trustee for deposit. If amounts in the Debt Service Fund are not sufficient to pay in full the principal and interest requirements on the Bonds, the amount of such deficiency shall be transferred, to the extent of available funds, in the following order: from the Optional Redemption Fund, the Working Capital Fund and then from the Debt Service Reserve Fund.

(B) The money and investments in the Debt Service Fund are irrevocably pledged and shall be used by the Trustee, from time to time, to the extent required:

FIRST: For the payment of interest whenever due and payable and for the payment of principal of Bonds when due at maturity or upon sinking fund redemption; and

SECOND: Upon direction by the Borrower, to purchase Outstanding Bonds at purchase prices not exceeding par plus accrued interest, but only to the extent amounts therein are sufficient to pay all principal of and interest on the Bonds scheduled to become due in the then current Bond Year either at maturity or upon sinking fund redemption, as reduced by the amount of credit which will be given as against such payments for such purchase of Bonds.

(C) Investment income on amounts in the Debt Service Fund, upon receipt by the Trustee, shall be retained in the Debt Service Fund.

(D) The Borrower shall have no right, title or interest in any amounts from time to time in the Debt Service Fund.

Section 5.06. Debt Service Reserve Fund. A special trust fund is hereby established with the Trustee and designated the “Debt Service Reserve Fund.”

(A) Series 2025B Bonds Account. Within the Debt Service Reserve Fund there shall be created and maintained an account designated as the “Series 2025B Bonds Account” to secure the Series 2025B Bonds.

(i) On the Closing Date of the Series 2025B Bonds, the Trustee shall credit to the Series 2025B Account of the Debt Service Fund the amount set forth in Section 5.02 hereof to satisfy the Reserve Requirement for the Series 2025B Bonds.

(ii) If on any Interest Payment Date or Principal Payment Date there is a deficiency in the Debt Service Fund for payment of principal, premium, if any, or interest then due with respect to the Series 2025B Bonds, the Trustee shall, after transferring to the Debt Service Fund any available funds on hand in the Optional Redemption Fund and the Working Capital Fund, transfer from the Series 2025B Account of the Debt Service Reserve Fund to the Debt Service Fund an amount equal to any remaining deficiency.

(iii) Notwithstanding any other provision hereof, all Qualified Investments acquired for the Debt Service Reserve Fund shall meet the definition of “plain par investments” as set forth in Section 1.148-1(b) of the Treasury Regulations (i.e., shall be a fixed rate investment which pays interest at least annually; if redeemable, shall have a lowest stated redemption price not less than its outstanding stated principal amount; and shall be acquired with original issue or market discount, or original issue or market premium, as applicable, not exceeding two percent (2%) of the stated redemption price at maturity). The Trustee has no duty or obligation to confirm that any Qualified Investments delivered to it by the Borrower meet such requirements.

(iv) Investment of amounts on hand in the Series 2025B Account of the Debt Service Reserve Fund shall be made in any Qualified Investments specified in a Borrower Request. All income derived from the investment of amounts on hand in the Series 2025B Account of the Debt Service Reserve Fund shall remain in, and be credited as received to, the Series 2025B Account of the Debt Service Reserve Fund until such time as the balance in the Series 2025B Account of the Debt Service Reserve Fund (valued in accordance with Section 5.14(E) hereof) is equal to the Reserve Requirement for the Series 2025B Bonds, and thereafter all such investment income shall be transferred as received according to the following paragraph. If on any Interest Payment Date, the balance in the Series 2025B Account of the Debt Service Reserve Fund exceeds the Reserve Requirement for the Series 2025B Bonds, after payment of any unpaid Trustee’s fees and expenses, the Trustee shall immediately transfer such excess to the Debt Service Fund.

(v) If any amount is transferred from the Series 2025B Account of the Debt Service Reserve Fund to the Debt Service Fund pursuant to the requirements of this Subordinate Indenture to pay debt service on the Series 2025B Bonds as a result of the failure of the Borrower to make the Loan Repayments required by Section 4.2 of the Subordinate Loan Agreement, the Trustee will thereafter credit to the Series 2025B Account of the Debt Service Reserve Fund all payments received by the Trustee from the Borrower pursuant to the Section 4.3(b) of the Subordinate Loan Agreement.

(vi) The Reserve Requirement for the Series 2025B Bonds, if not previously used to pay such Series 2025B Bonds, shall be applied against the final installment of principal due on such Series 2025B Bonds.

(B) In the event any Additional Bonds are issued, a separate debt service reserve fund or an additional account within the Debt Service Reserve Fund shall be created pursuant to a Supplemental Indenture in connection with the issuance of such Additional Bonds.

Section 5.07. Optional Redemption Fund. A special trust fund is hereby established with the Trustee and designated the “Optional Redemption Fund.”

(A) The Trustee shall deposit into the Optional Redemption Fund all amounts deposited for the payment of amounts due upon a redemption of Outstanding Bonds (other than because of mandatory sinking fund redemption pursuant to Section 3.05(C) hereof), and as may be required by any provision of the Subordinate Loan Agreement or this Subordinate Indenture and amounts resulting from the release of Land from the Mortgage in accordance with Section 4.7 of the Mortgage.

(B) Amounts on deposit to the credit of the Optional Redemption Fund shall be used, first, to make up deficiencies in the Debt Service Fund (to the extent described in Section 5.05(A) hereof); second, for the payment of principal of or, premium, if any, and interest on Bonds as a result of the redemption of Outstanding Bonds at the request or direction of the Borrower pursuant to Article XII hereof; and third, for the purchase of Outstanding Bonds at the direction of the Borrower as provided in Section 5.06(B) hereof.

(C) Upon receipt by the Trustee, investment income on amounts in the Optional Redemption Fund shall be transferred to the Debt Service Fund.

(D) The Borrower shall have no right, title or interest in any amounts from time to time in the Optional Redemption Fund.

Section 5.08. Capitalized Interest Fund. A special trust fund is hereby established with the Trustee and designated the “Capitalized Interest Fund.”

(A) On the Closing Date of the Series 2025B Bonds, the Trustee shall credit to the Capitalized Interest Fund the amount set forth in Section 5.02 hereof. Funds in the Capitalized Interest Fund shall be transferred automatically by the Trustee to the Debt Service Fund on the last Business Day of the month prior to a month in which an Interest Payment Date occurs in full or partial satisfaction of the interest payment payable by the Borrower with respect to the Bonds until the Capitalized Interest Fund is fully depleted.

(B) Any interest earned on sums held in the Capitalized Interest Fund prior to the Completion Date shall remain a part of the Capitalized Interest Fund.

(C) Any funds remaining in the Capitalized Interest Fund following the Completion Date of the Project shall be transferred to the Debt Service Fund.

Section 5.09. Repair and Replacement Reserve Fund. A special fund is hereby established with the Trustee and designated as the “Repair and Replacement Reserve Fund.” Pursuant to Section 4.3(d) of the Subordinate Loan Agreement, the Borrower shall make monthly deposits to the Repair and Replacement Reserve Fund.

(A) Moneys in the Repair and Replacement Reserve Fund shall, to the extent herein provided, be disbursed by the Trustee to and in accordance with the form of draw request set forth as EXHIBIT B hereto and used by the Borrower to pay for depreciable expenses attributable to the cost of renewals, replacements or improvements to the Project. Each written request from the Borrower shall be accompanied by a certificate from the authorized Borrower Representative addressed to the Trustee to the

effect that such work is a depreciable expense. Such request shall itemize the nature of the work to be undertaken by the Borrower and shall include a certification to the Trustee by a Borrower Representative to the effect that such request seeks payment or reimbursement for costs that are fair and reasonable market costs for such itemized work. The Trustee shall not be bound to make an investigation into the facts or matters stated in any such requisition and has no duty or obligation to confirm that any requested disbursements are for a permitted purpose.

(B) All income derived from investment amounts on deposit in the Repair and Replacement Reserve Fund shall remain in, and be credited to, the Repair and Replacement Reserve Fund.

(C) Amounts, if any, remaining in the Repair and Replacement Reserve Fund upon the payment in full of all Bonds, or the provision for payment thereof in accordance with the terms of this Subordinate Indenture, shall be transferred to the Borrower.

Section 5.10. Rebate Fund. A special fund is hereby established with the Trustee and designated as the “Rebate Fund.” The Trustee shall make information regarding any Bonds which are Tax-Exempt Bonds and investments hereunder available to the Borrower, shall make deposits and disbursements from the Rebate Fund in accordance with the instructions received from the Borrower, shall invest the Rebate Fund pursuant to the direction of the Borrower and shall deposit income from such investments immediately upon receipt thereof in the Rebate Fund. The Issuer shall have no liability with respect to arbitrage rebate.

Section 5.11. [Working Capital Fund. A special trust fund is hereby established with the Trustee and designated the “Working Capital Fund.” On the Closing Date of the Series 2025B Bonds, the Trustee shall credit to the Working Capital Fund the amount set forth in Section 5.02 hereof. Amounts in the Working Capital Fund shall be disbursed by the Trustee to the Borrower in accordance with the form of draw request attached hereto as EXHIBIT C for the payment of working capital costs (including but not limited to pre-opening costs, operating expenses, leasing expenses, and marketing costs) with respect to the Project. The Trustee shall also transfer funds from the Working Capital Fund to the Debt Service Fund to the extent of any deficiency in the Debt Service Fund on any Interest Payment Date. Interest earned on the Working Capital Fund shall be deposited into the Construction Fund.]

[The amounts credited to the Working Capital Fund shall be released to the Borrower in the event that (i) the Trustee has received a Borrower Request for the release to the Borrower of the amounts credited to the Working Capital Fund; and (ii) based on the audited financial statements of the Borrower for the Fiscal Year preceding the Borrower Request (for any Fiscal Year ending on or after September 30, 20___), the Borrower’s Net Revenues Available for Debt Service shall be at least one hundred _____ percent (___%) of the Principal and Interest Requirements on Long-Term Indebtedness for such Fiscal Year (including Management Fees paid to Sole Member in Project Operating Expenses in the calculation of the ratio of the Borrower’s Net Revenues Available for Debt Service to Principal and Interest Requirements on Long-Term Indebtedness but excluding debt service on any Subordinate Indebtedness in the calculation).]

Section 5.12. Taxes and Insurance Escrow Fund. The Trustee shall establish and maintain a special trust fund designated as the “Taxes and Insurance Escrow Fund” to be funded on the Closing Date of the Series 2025B Bonds in the amount set forth in Section 5.02 hereof. Commencing on _____ 25, 20___, and on or before the twenty-fifth day of each month thereafter, the Borrower shall make monthly deposits of one-twelfth of the tax payments and insurance premiums for the upcoming twelve (12) month period to the Taxes and Insurance Escrow Fund in accordance with Section 4.3 of the Loan Agreement. The Trustee shall apply money on deposit in the Taxes and Insurance Escrow Fund, upon written request of the Borrower, solely to pay (A) the real estate tax payments (including payments in lieu of taxes) then

due and payable with respect to the Project; and (B) premiums then due and payable on insurance policies maintained by the Borrower in accordance with the requirements of Section 5.10 of the Loan Agreement. The Borrower shall provide detailed written payment instructions for any real estate tax payments and insurance premium payments to be made hereunder, and the Trustee shall be entitled to rely on such payment instructions without further investigation. Notwithstanding the foregoing, any investment earnings from the Taxes and Insurance Escrow Fund shall be transferred to the Construction Fund.

Section 5.13. Additional Payments. Pursuant to Section 4.3 of the Subordinate Loan Agreement, the Borrower has covenanted to pay directly to the Trustee when due Additional Payments in an amount sufficient to pay the costs and expenses of the Trustee. Such Additional Payments shall not be treated or considered as Trust Money for any purpose of this Subordinate Indenture and the Trustee may on its own behalf enforce such covenant against the Borrower. The Trustee shall have a lien on all Trust Money, except money and/or Government Obligations held by the Trustee for the payment of any specified Bonds under Article VI hereof, prior to the lien securing the Bonds, for such costs and expenses as set forth in Section 8.07 hereof.

Section 5.14. Qualified Investments.

(A) The Trustee shall invest all Trust Money on hand from time to time as specified in a Borrower Request in any of the following Qualified Investments:

(i) Government Obligations or obligations of any agency or instrumentality of the United States of America;

(ii) commercial paper rated in one (1) of the three (3) highest rating categories (without regard to any gradation or refinement of such rating category by a numerical or other modifier) of any Rating Agency, or commercial paper backed by a letter of credit or line of credit rated in one (1) of the three (3) highest rating categories (without regard to any gradation or refinement of such rating category by a numerical or other modifier) of any Rating Agency;

(iii) repurchase agreements meeting the requirements set forth in the definition of Governmental Obligations;

(iv) corporate bonds or obligations described in Section 103(a) of the Code, which are rated by a Rating Agency in one (1) of its three (3) highest rating categories (without regard to any gradation or refinement of such rating category by a numerical or other modifier);

(v) certificates of deposit issued by, or time deposits in, any bank, savings institution or trust company (including the Trustee or any affiliate of the Trustee) which bank, savings institution or trust company is rated by a Rating Agency in one (1) of its three (3) highest rating categories (without regard to any gradation or refinement of such rating category by a numerical or other modifier); and

(vi) money market mutual funds; and

(vii) any other debt instrument of equal credit rating to any obligations listed in clauses (i) through (v) above.

(B) The Trustee may rely on the investment directions of the Borrower as to both the suitability and the legality of the directed investment and such written direction shall be deemed to be a certification that such directed investments constitute Qualified Investments. Ratings on Qualified Investments shall be

determined at the time of initial purchase of such Qualified Investments and without regard to ratings subcategories and the Trustee shall have no responsibility to monitor the ratings of Qualified Investments after the initial purchase of such Qualified Investments, including at the time of reinvestment of earnings thereof. In the absence of such direction, all funds shall be held by the Trustee uninvested in cash, without liability for interest. The Trustee shall without further direction from the Issuer or the Borrower sell such Qualified Investments as and when required to make any payment for the purpose for which such investments are held. Each investment shall be credited to the fund for which it is held, after payment of any unpaid Trustee's fees, subject to any other provision of this Subordinate Indenture directing some other credit, but income on such Qualified Investments shall be held or transferred, as received, in accordance with this Article V. The Trustee shall not be responsible for any losses on investments made in good faith or the tax consequences thereof.

(C) The Trustee shall furnish the Borrower, not less than annually, a detailed accounting of all investments and investment transactions. By the execution of the Subordinate Loan Agreement, the Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur, and the Borrower specifically waives such notification to the extent permitted by law.

(D) The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Qualified Investments in such funds and accounts, or to credit to Qualified Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Borrower acknowledges that the legal obligation to pay the purchase price of any Qualified Investments arises immediately at the time of the purchase. Notwithstanding anything else in this Subordinate Indenture, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii) nothing in this Subordinate Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

(E) In computing the assets of any Fund established hereunder, investments and accrued but unpaid interest thereon shall be deemed a part thereof, and such investments shall be valued at market value, or at the redemption price thereof, if then redeemable at the option of the holder.

The Issuer and the Borrower each acknowledges and agrees that the Trustee shall (i) only be required to report the value of any assets on statements, books, and records according to the price provided by pricing services and sources relied upon by the Trustee, and (ii) not have any duty to independently value any asset or an obligation to report a value other than the price provided by pricing services and sources relied upon by Trustee.

ARTICLE VI

DEFEASANCE

Section 6.01. Payment of Indebtedness; Satisfaction and Discharge of Subordinate Indenture. This Subordinate Indenture shall cease to be of further effect (except as to rights of transfer or exchange of Bonds herein expressly provided for), and the Trustee, on demand of and at the expense of the Borrower, shall execute proper instruments acknowledging satisfaction and discharge of this Subordinate Indenture, upon the following:

(A) either

(i) all Bonds theretofore authenticated and delivered (other than (1) Bonds which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.08 hereof; and (2) Bonds for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Borrower and thereafter repaid to the Borrower or discharged from such trust, as provided in Section 11.02 hereof) have been delivered to the Trustee canceled or for cancellation; or

(ii) all such Bonds not theretofore delivered to the Trustee canceled or for cancellation, have been defeased in accordance with Section 6.02 hereof; and

(B) the Borrower has paid or caused to be paid all other sums payable hereunder by the Issuer and the Borrower; and

(C) the Borrower has delivered to the Trustee a Borrower Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Subordinate Indenture have been complied with.

Section 6.02. Defeasance of Bonds. Bonds shall be defeased and shall no longer be deemed Outstanding (except as to rights of transfer or exchange of Bonds herein expressly provided for) when there are delivered to the Trustee:

(A) either (i) Defeasance Obligations, the principal of, premium, if any, and interest on which when due will, without reinvestment, provide cash at times and in amounts which together with the cash, if any, deposited with the Trustee at the same time as the Defeasance Obligations are delivered to the Trustee, or (ii) such cash delivered to the Trustee in an amount which, without investment or reinvestment, shall be sufficient to pay the full amount of principal, premium, if any, and interest which will become due and payable with respect to such Bonds, on and before their Stated Maturity or on and before a specified Redemption Date, as the case may be, and if any of such Bonds are to be redeemed arrangements satisfactory to the Trustee have been made for giving notice of such redemption at the expense of the Borrower in the manner provided by Section 12.05 hereof; and

(B) an Opinion of Bond Counsel to the effect that the deposit described in subsection (A) above will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond; and

(C) if the defeasance is to be accomplished through a refunding where redemption of the Bonds will occur more than ninety (90) days after the Redemption Date, a report of an Accountant verifying the mathematical sufficiency of the proceeds of the Defeasance Obligations and any cash delivered to the Trustee as described in subsection (A) above, to pay the entire amount of principal, premium, if any, and

interest on the Bonds to be defeased on and before their Stated Maturity or Redemption Date, as the case may be; and

(D) a Borrower Certificate and an Opinion of Counsel, each stating that, assuming the accuracy of the report referred to in subsection (C) above, all conditions precedent herein provided for relating to the defeasance of such Bonds have been complied with.

Section 6.03. Application of Deposited Money. All money, obligations and income thereon deposited with the Trustee pursuant to Sections 6.01 and 6.02 hereof shall not be a part of the Trust Estate and shall not be deemed Trust Money but shall constitute a special trust fund for the benefit of the Persons entitled thereto, and shall be applied by the Trustee to the payment (either directly or through a paying agent), to the Persons entitled thereto, of the principal, premium, if any, and interest for payment of which such money or obligation were deposited with the Trustee.

Section 6.04. Final Disposition of Money. Upon the satisfaction and discharge of this Subordinate Indenture and the satisfaction of any and all claims against the Issuer, any money remaining in any fund created under this Subordinate Indenture and not required for the payment of any Bonds shall be paid to the Borrower.

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ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.01. Events of Default. The term “Event of Default,” wherever used herein, means any of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (A) default in the payment of any interest upon any Bond when it becomes due and payable;
- (B) default in the payment of the principal of (or premium, if any, on) any Bond when the same becomes due and payable;
- (C) default in the performance, or breach, of any covenant or warranty of the Issuer contained in this Subordinate Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 7.01 specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Issuer and the Borrower by the Trustee, or to the Issuer, the Borrower and the Trustee by the Majority of Bondholders, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder;
- (D) occurrence of an “Event of Default” under Section 9.1 of the Subordinate Loan Agreement;
or
- (E) failure by the Sole Member to make the payments required under the Subordinate Guaranty.

Section 7.02. Acceleration of Maturity.

(A) If an Event of Default occurs and is continuing, then and in every such case the Trustee may, and upon the written request by registered or certified mail to the Trustee by the Majority of Bondholders shall, subject to Sections 7.15 and 8.03(E) hereof, declare the principal of all the Outstanding Bonds to be due and payable immediately by a notice in writing to the Issuer and the Borrower, and upon any such declaration such principal shall become immediately due and payable; provided, however, that no Bonds shall be accelerated under this Section 7.02 unless and until the Trustee shall have exercised the remedy specified in Section 9.2(a) of the Subordinate Loan Agreement;

(B) At any time after such a declaration of acceleration has been made, but before the Trustee has exercised any other remedy specified in the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, the Majority of Bondholders, by written notice to the Issuer, Borrower and the Trustee, may rescind and annul such declaration and its consequences if there has been paid to or deposited with the Trustee a sum sufficient to pay:

- (i) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel,
- (ii) all Defaulted Interest,

(iii) the principal of (and premium, if any, on) any Bonds which have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by such Bonds, and

(iv) to the extent that payment of such interest is lawful, interest upon Defaulted Interest at the rate borne by the Bonds; and

(C) All Events of Default, other than the non-payment of the principal of Bonds which have become due solely by such acceleration, have been cured or waived as provided in Section 7.16 hereof. No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 7.03. Other Remedies. If an Event of Default occurs and is continuing, then in every such case the Trustee may, and upon the written request by registered or certified mail to the Trustee by the Majority of Bondholders and upon receipt of satisfactory security or indemnification for the reimbursement of all expenses to which it may be put by reason of any action so taken, shall, exercise one (1) or more of the remedies specified in Section 9.2(b), (c), (d) and/or (e) of the Subordinate Loan Agreement, in accordance with the provisions of Article IX of the Subordinate Loan Agreement.

Section 7.04. Application of Money.

(A) All money received by the Trustee or the Issuer pursuant to any right given or action taken under the provisions of this Article VII shall, after payment of the cost and expenses of the proceedings resulting in the collection of such money and of the expenses, liabilities and advances incurred or made by the Trustee or the Issuer and the creation of a reasonable reserve for anticipated fees, costs and expenses, and all money in the Trust Funds maintained by the Trustee under Article V hereof, shall be applied as follows:

(i) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such money shall be applied:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment to the persons entitled thereto, without any discrimination or privilege; and

SECOND: To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due (other than Bonds called for redemption and for the payment of which money is held pursuant to the provisions of this Subordinate Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the Bonds due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bonds over any other Bonds, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(B) Whenever money is to be applied by the Trustee pursuant to the provisions of this Section 7.04, such money shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposits with it of any such money and of the fixing of any such date, and shall not be required to make payment to the Holder of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(C) Whenever all Bonds and interest thereon have been paid under the provisions of this Section 7.04 and all expenses and charges of the Trustee have been paid, any balance remaining shall be paid to the person entitled to receive the same; if no other person shall be entitled thereto, then the balance shall be paid to the Borrower.

Section 7.05. Bondholders or Trustee May Purchase; Purchaser May Apply Bonds Toward Purchase Price. At any sale of the property secured by the Subordinate Mortgage or any Collateral Document, or any part thereof, under Article IX of the Subordinate Loan Agreement, any Bondholder or Bondholders or the Trustee may bid for and purchase the property offered for sale, may make payment on account thereof as herein provided, and, upon compliance with the terms of such sale, may hold, retain and dispose of such property without further accountability therefor. In case of any sale of the property secured by the Subordinate Mortgage or any Collateral Document, or any part thereof, under Article IX of the Subordinate Loan Agreement, any purchaser shall be entitled, for the purpose of making payment for the property purchased, to use any Bonds then Outstanding and claims for interest, in order that there may be credited thereon the sums payable out of the net proceeds of such sale to the Holder of such Bonds and claims for interest as his ratable share of such net proceeds; and thereupon such purchaser shall be credited on account of such purchase price with the portion of such net proceeds that shall be applicable to the payment of, and shall have been credited upon, the Bonds and claims for interest so used.

Section 7.06. Receiver. Upon the occurrence of an Event of Default and commencement of judicial proceedings by the Trustee to enforce any right under this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, the Trustee shall be entitled, without notice or demand and without regard to the adequacy of the security for the Bonds or the solvency of the Borrower, to the appointment of a receiver of any property and of the profits, revenues and other income thereof, but, notwithstanding the appointment of any receiver, the Trustee shall be entitled to retain possession and control of, and to collect and receive the income from, cash, securities and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder and to retain control of, and to collect and receive the income from, all property subject to the lien of the Subordinate Mortgage and any Collateral Document.

Section 7.07. Collection of Indebtedness by the Trustee.

(A) If (i) default is made in the payment of any interest on any Bond when such interest becomes due and payable or (ii) default is made in the payment of the principal of (or premium, if any, on) any Bond as the same becomes due and payable, then the Trustee will cause the Borrower, on behalf of the Issuer, to pay to the Trustee for the benefit of the Holders of such Bonds the whole amount then due and payable on such Bonds, for principal, premium, if any, and interest, with interest at the respective rates prescribed in the Bonds on overdue principal (and premium, if any) and (to the extent that payment of such interest is legally enforceable) on Defaulted Interest; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation,

expenses, disbursements and advances of the Trustee, its agents and counsel. If the Borrower fails to pay such amounts forthwith upon demand the Trustee, in its own name and as trustee of an express trust, shall be entitled to sue for and recover judgment against the Borrower for the whole amount so due and unpaid.

(B) The Trustee shall be entitled to sue and recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of the lien of this Subordinate Indenture, the Subordinate Mortgage or any Collateral Document and in case of a sale of the Trust Estate and the application of the proceeds of sale as aforesaid, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon the Outstanding Bonds, for the benefit of the Holders thereof, and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid. No recovery of any such judgment upon any property of the Borrower shall affect or impair the lien of this Subordinate Indenture upon the Trust Estate or any rights, powers or remedies of the Trustee hereunder, or any rights, powers or remedies of the Holders of the Bonds.

Section 7.08. Trustee May File Proofs of Claims. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or the Borrower or any other obligor upon the Bonds or the property of the Issuer or the Borrower or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer and/or the Borrower for the payment of overdue principal or Defaulted Interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(A) to file and prove a claim for the whole amount of principal, premium, if any, and interest owing and unpaid in respect of the Bonds then Outstanding and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Bondholders allowed in such judicial proceedings, and

(B) to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same;

and any receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Bondholder to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Bondholders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements, and advances of the Trustee, its agents and counsel.

Section 7.09. Trustee May Enforce Claims without Possession of Bonds. All rights of action and claims under this Subordinate Indenture, the Bonds, the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of Holders of the Bonds in respect of which such judgment has been recovered.

Section 7.10. Limitation on Suits. No Holder shall have any right to institute any proceedings, judicial or otherwise, with respect to this Subordinate Indenture, the Subordinate Loan Agreement, the

Subordinate Mortgage or any Collateral Document, or for the appointment of a receiver or trustee, or for any remedy hereunder or thereunder, unless:

(A) such Holder shall previously have given written notice to the Trustee of a continuing Event of Default;

(B) the Majority of Bondholders shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(C) such Holder or Holders shall have offered the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(D) the Trustee for sixty (60) days after its receipt of such written request and offer of indemnity has failed to institute any such proceeding; and

(E) no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Majority of Bondholders;

it being understood and intended that no one (1) or more Holders shall have any right, in any manner whatever, by virtue of, or by availing of, any provision of this Subordinate Indenture to affect, disturb or prejudice the rights of any other Holders or to obtain or seek to obtain priority or preferences over any other Holders or to enforce any right under this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, except in the manner herein provided and for the equal and ratable benefit of all the Holders then Outstanding.

Section 7.11. Unconditional Right of Bondholders to Receive Principal, Premium and Interest. Notwithstanding any other provision in this Subordinate Indenture, the Holder of any Bond shall have the right, which is absolute and unconditional, to receive payment of the principal of, premium, if any, and interest on such Bond on the Stated Maturity expressed in such Bond (or, in the case of redemption, on the Redemption Date or Sinking Fund Payment Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

Section 7.12. Restoration of Positions. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document, by foreclosure, entry or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Borrower, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 7.13. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, but every such right or remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or under the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or under the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 7.14. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence therein. Every right and remedy given by this Article VII, or under the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, or by law, to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 7.15. Control by Holders. The Majority of Bondholders shall have the right, during the continuance of an Event of Default,

(A) to require the Trustee to proceed to enforce this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, either by judicial proceedings for the enforcement of the payment of the Bonds or the foreclosure of the Subordinate Mortgage or the enforcement of any other remedy; and

(B) to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee hereunder, or under the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document; provided that

(i) such direction shall not be in conflict with any rule of law or with this Subordinate Indenture;

(ii) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders not taking part in such direction; and

(iii) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, each representing less than a Majority of Bondholders, the Trustee, in its sole discretion, may determine what action, if any, will be taken.

Section 7.16. Waiver of Past Defaults. Any Event of Default under Section 7.01(D) hereof shall be automatically waived, rescinded and annulled if the corresponding "Event of Default" under the Subordinate Loan Agreement shall be waived, rescinded and annulled pursuant to, and in accordance with the provisions of, Section 9.1 of the Subordinate Loan Agreement. Before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due has been obtained by the Trustee as provided in this Article, the Holders of not less than two-thirds in principal amount of the Bonds Outstanding may, by act of such Holders delivered to the Trustee and the Borrower, on behalf of all Holders waive any past default hereunder and its consequences, except a default:

(A) in the payment of the principal of (or premium, if any) or interest on any Bond, or

(B) in respect of a covenant or provision hereof which under Article X cannot be modified or amended without the consent of the Holder of each Outstanding Bond affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Subordinate Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 7.17. Undertaking for Costs. The Borrower in the Subordinate Loan Agreement has agreed and all parties to this Subordinate Indenture agree, and each Holder of any Bond by their acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Subordinate Indenture, or in any suit against the Trustee or Issuer for any action taken or omitted by it as Trustee or Issuer, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 7.17 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Bondholder or group of Bondholders comprising a Majority of Bondholders, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of, premium, if any, or interest on any Bond on or after the Stated Maturity expressed in such Bond solely from the revenues pledged therefor (or, in the case of redemption, on or after the Redemption Date).

Section 7.18. Suits to Protect the Trust Estate and Other Property. The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate or the property secured by the Subordinate Mortgage or any Collateral Document by any acts which may be unlawful or in violation of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, and to protect its interests and the interests of the Holders in the Trust Estate and in the issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair the security hereunder or thereunder or be prejudicial to the interest of the Holders or the Trustee.

Section 7.19. Rights under Subordinate Loan Agreement. The Issuer, in the Granting Clauses, has pledged and granted a security interest in all of its rights in the Subordinate Loan Agreement (other than the Issuer's Unassigned Rights) to the Trustee, and the Trustee in its name or in the name of the Issuer may enforce all rights and remedies of the Issuer under and pursuant to the Subordinate Loan Agreement (except with respect to the Issuer's Unassigned Rights, which may be enforced directly by the Issuer).

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ARTICLE VIII

THE TRUSTEE

Section 8.01. Certain Duties and Responsibilities.

(A) Except during the continuance of an Event of Default,

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Subordinate Indenture and no implied covenants or obligations shall be read into this Subordinate Indenture, the Loan Agreement, the Mortgage or any Collateral Document against the Trustee; and

(ii) in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Subordinate Indenture, the Subordinate Mortgage and the Subordinate Loan Agreement; but in the case of any such certificates or opinions which by any provisions hereof, the Subordinate Mortgage or the Subordinate Loan Agreement are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Subordinate Indenture, the Subordinate Mortgage or the Subordinate Loan Agreement.

(B) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Subordinate Indenture and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(C) No provision of this Subordinate Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection (C) shall not be construed to limit the effect of subsection (A) above;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Majority of Bondholders relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Subordinate Indenture; and

(iv) no provision of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) Whether or not therein expressly so provided, every provision of this Subordinate Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 8.01.

Section 8.02. Notice of Event of Default. Within ninety (90) days after the occurrence of any default hereunder, the Trustee shall transmit by mail to all Holders notice of such default hereunder known to a Responsible Officer of the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of, premium, if any, or interest on any Bond, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders; and provided, further, that in the case of any default of the character specified in Section 7.01(C) hereof no such notice to Holders shall be given until at least thirty (30) days after the occurrence thereof.

Section 8.03. Certain Rights of Trustee. Except as otherwise provided in Section 8.01 hereof:

(A) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(B) any request or direction of the Issuer or the Borrower mentioned herein shall be sufficiently evidenced by an Issuer Request, Issuer Order, Borrower Request or Borrower Order and any resolution of the Issuer's governing body or resolution of the Board of the Borrower may be sufficiently evidenced by an Issuer Resolution or Borrower Resolution;

(C) whenever in the administration of this Subordinate Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of negligence or willful misconduct on its part, rely upon an Issuer Certificate or Borrower Certificate;

(D) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in the absence of negligence or willful misconduct;

(E) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, at the request or direction of any of the Holders pursuant to this Subordinate Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(F) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, coupon or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Borrower, personally or by agent or attorney;

(G) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder or under the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral

Document, either directly or by or through agents or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(H) the Trustee shall not be personally liable, in case of entry by it upon the Project, for debts contracted or liabilities or damages incurred in the management or operation of the Trust Estate.

Section 8.04. Not Responsible for Recitals or Issuance of Bonds. The recitals contained herein and in the Bonds, except the Trustee's certificate of authentication on the Bonds, shall not be taken as the statements of the Trustee, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the value or condition of the Project or any part thereof, or as to the title of the Borrower thereto or as to the security afforded thereby or hereby or as to the validity or sufficiency of this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage, any Collateral Document, or of the Bonds.

Section 8.05. May Hold Bonds. The Trustee or any other agent of the Issuer, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer and/or the Borrower with the same rights it would have if it were not Trustee or such other agent.

Section 8.06. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder.

Section 8.07. Compensation and Reimbursement. As security for the performance of the obligations of the Borrower to make Additional Payments to the Trustee under Section 4.3 of the Subordinate Loan Agreement and to indemnify the Trustee under Section 7.7 of the Subordinate Loan Agreement, the Trustee shall, except as to money and/or Government Obligations held by the Trustee for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article VI hereof, be secured under this Subordinate Indenture by a lien prior to the Bonds; and for the payment of such compensation, expenses, reimbursements and indemnity the Trustee shall have the right to use and apply any Trust Money, held by it except money and/or Government Obligations held by the Trustee pursuant to Article VI hereof as aforesaid.

Section 8.08. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee hereunder which shall be a corporation or national banking association organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by a federal or state authority. If such entity publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 8.08 the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.08, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VIII.

Section 8.09. Resignation and Removal; Appointment of Successor.

(A) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VIII shall become effective until the acceptance of appointment by the successor Trustee under Section 8.10 hereof.

(B) The Trustee may resign at any time by giving written notice thereof to the Issuer and the Borrower. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee and the Borrower shall be responsible for any costs associated with such petition.

(C) The Trustee may be removed upon thirty (30) days' notice at any time by Borrower Order, provided that no Event of Default under the Subordinate Loan Agreement has occurred and is continuing, and that no act or omission of the Borrower has occurred which would be an Event of Default under the Subordinate Loan Agreement but for the giving of notice or the passage of time.

(D) If at any time the Trustee shall cease to be eligible under Section 8.08 hereof and shall fail to resign after written request therefor by the Issuer, the Borrower or by any Holder, or the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (i) the Issuer by an Issuer Resolution may remove the Trustee; or (ii) any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(E) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Issuer, by an Issuer Resolution, shall promptly appoint a successor Trustee acceptable to the Borrower, whose acceptance shall not be unreasonably withheld. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a successor to fill a vacancy until a new Trustee shall be so appointed by the Holders. If, within one (1) year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by act of the Majority of Bondholders delivered to the Issuer, the retiring Trustee and the Borrower, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Issuer. If no successor Trustee shall have been so appointed by the Issuer or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(F) The Borrower shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Holders. Each notice shall include the name of the successor Trustee and the address of its principal corporate trust office.

Section 8.10. Acceptance of Appointment by Successor Trustee.

(A) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and to the Borrower and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument or instruments transferring to such successor Trustee all the rights, powers, and trusts of the retiring Trustee in and to all property and money held by such retiring Trustee hereunder or under the Subordinate Loan Agreement, Subordinate Mortgage or any Collateral Document, subject nevertheless to its lien, if any, provided for in Section 8.07 hereof.

Upon request of any such successor Trustee, the Issuer and the Borrower shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(B) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article VIII, to the extent operative.

Section 8.11. Merger, Conversion, Consolidation or Successor to Business. Any corporation or national banking association into which the Trustee may be merged or converted or with which it may be consolidated or which it may sell or transfer, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the municipal corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such entity shall be otherwise qualified and eligible under this Article VIII, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

Section 8.12. Trustee and Subordinate Loan Agreement. Reference is hereby made to the Subordinate Loan Agreement, wherein it is provided that the Trustee will accept certain duties, perform or consent to certain acts, receive certain documents and exercise certain rights and remedies under such Subordinate Loan Agreement, the Subordinate Mortgage and any Collateral Document. The Trustee hereby consents to such terms and provisions contained in the Subordinate Loan Agreement and covenants and agrees to accept such duties, perform such acts and receive such documents thereunder as is expressly set forth therein on the terms and conditions therein specified. The Trustee hereby covenants and agrees to exercise all rights and remedies set forth in the Subordinate Loan Agreement relating to the Subordinate Loan Agreement, the Subordinate Mortgage and any Collateral Document as the Trustee deems necessary and proper, employing the standards set forth in Section 8.01 hereof, in the best interests of the Holders.

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ARTICLE IX

AMENDMENT OF SUBORDINATE LOAN AGREEMENT, SUBORDINATE MORTGAGE AND COLLATERAL DOCUMENTS

Section 9.01. Amendment to Subordinate Loan Agreement, Subordinate Mortgage and Collateral Documents Without Consent of Holders. Without the consent of the Holders, the Trustee, at any time and from time to time, may consent to one (1) or more amendments or supplements to the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, in form satisfactory to the Trustee, for any of the following purposes:

(A) to correct or amplify the description of any property at any time subject to the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document, or better to assure, convey and confirm unto the Trustee any property subject or required to be subject to the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document, or to subject to the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document, additional property;

(B) to add to the conditions, limitations and restrictions of the Borrower in the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document other conditions, limitations and restrictions thereafter to be observed;

(C) to consent to the creation of any series of Additional Bonds, as provided in Article IV hereof, including therein any amendment of the Subordinate Loan Agreement to provide for increased Loan Repayments to pay the debt service on such Additional Bonds and, if necessary, Additional Payments, to provide terms and conditions relating to the acquisition, construction, installation and equipping of any Related Facilities, Improvement or Unrelated Improvement financed with the proceeds of such series of Additional Bonds, or to subject to the lien of the Subordinate Mortgage such Related Facilities, Improvement or Unrelated Improvement;

(D) to evidence the succession of another corporation to the Borrower in accordance with the provisions of Section 7.4 of the Subordinate Loan Agreement, and the assumption by any such successor of the covenants of the Borrower contained in the Subordinate Loan Agreement, the Subordinate Mortgage, and any Collateral Document, or to evidence the succession of any successor Trustee under the provisions of Article VIII hereof;

(E) to add to the covenants of the Borrower or to surrender any right or power conferred upon the Borrower;

(F) to add any property or other right to the lien of the Subordinate Mortgage or any Collateral Document, or to release any property (or undivided interest therein) or other right from the Subordinate Mortgage or any Collateral Document when made in accordance with, and subject to the provisions of, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document;

(G) to eliminate, modify, or add any provision which in the Opinion of Bond Counsel is necessary or desirable in order to preserve the exemption of interest on the Tax-Exempt Bonds from federal income taxation;

(H) to cure any ambiguity, to correct or supplement any provision of the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document that may be inconsistent with any other provision of the Subordinate Loan Agreement, the Subordinate Mortgage, or any Collateral Document, or to make any other provisions with respect to matters or questions arising under the Subordinate Loan

Agreement, the Subordinate Mortgage, or any Collateral Document, which shall not be inconsistent with the provisions thereof or this Subordinate Indenture, provided such action shall not adversely affect (as described in Section 9.02(B) hereof) the interests of the Holders of the Bonds;

(I) to release property from the Mortgage in accordance with the requirements of Section 4.7 of the Subordinate Mortgage; or

(J) in the event the Borrower exercise its option to purchase a fee title interest in the Land, to amend the Mortgage and any Collateral Documents to reflect that the Borrower has a fee title interest in the Land as described in more detail in Section 9.04 hereof.

Section 9.02. Amendment to Subordinate Loan Agreement, Subordinate Mortgage or Collateral Documents with Consent of Holders.

(A) With the consent of the Majority of the Bondholders which are affected by such amendment to the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document delivered to the Issuer and the Trustee, the Issuer, when authorized by an Issuer Resolution, and the Trustee may enter into an amendment or amendments to the Subordinate Loan Agreement or an amendment or amendments or a supplement or supplements to the Subordinate Mortgage or any Collateral Document for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document; provided, however, that no such amendment shall, without the consent of each Holder affected thereby,

(i) reduce the aggregate amount of Loan Repayments and Additional Payments payable under the Subordinate Loan Agreement, or allow any installment of Loan Repayments or Additional Payments to be paid subsequent to the time needed for the payment of principal of, premium, if any, and interest on the Bonds;

(ii) modify any of the provisions of the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document to eliminate the requirement that the Trustee consent to every amendment thereto; or

(iii) release from the lien of the Subordinate Mortgage or any Collateral Document any of the property secured thereby, or permit the creation of any lien ranking prior to or on a parity with the lien of the Subordinate Mortgage on the Mortgaged Property or the lien of this Subordinate Indenture on any part of the Trust Estate, except as expressly permitted by this Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document.

(B) For all purposes of this Section 9.02, Bonds shall be deemed to be “affected” by an amendment if such amendment adversely affects or diminishes the rights of Holders thereof to be assured of the payment of principal of, premium, if any, and interest on the Bonds. If the Trustee receives an Opinion of Counsel to the effect that Holders will not be adversely affected such determination shall be conclusive upon the Holders, whether theretofore or thereafter authenticated and delivered hereunder.

(C) It shall not be necessary for any act of Holders under this Section 9.02 to approve the particular form of any proposed amendment or supplement to the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, but it shall be sufficient if such act shall approve the substance thereof.

Section 9.03. Consent to Amendments. In consenting to an amendment to the Subordinate Loan Agreement or the execution of an amendment or supplement to the Subordinate Mortgage or any Collateral Document permitted by this Article IX, the Trustee and the Issuer shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such consent or amendment or supplement is authorized or permitted by this Subordinate Indenture and an Opinion of Bond Counsel that such amendment or supplement will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond. The Trustee and Issuer may, but shall not be obligated to, enter into any such amendment or supplement that affects the Trustee's or Issuer's own rights, duties or immunities under this Subordinate Indenture or otherwise.

Section 9.04. Consent to Borrower's Acquisition of Land. In connection with the Borrower's acquisition of fee title to the Land, the Borrower shall have the right without the consent of Holders, the Issuer or the Trustee to (A) amend the Mortgage or any Collateral Documents to reflect any new legal description for the Land; (B) file amendments to any UCC financing statement; and (C) grant additional easements, and replace or amend existing easements, for access and/or utilities, provided that such new, amended or replaced easements do not materially and adversely interfere with the Borrower's use of the Project Facilities. The Trustee and the Issuer agree to execute (without expense to the Trustee or the Issuer) any and all documents necessary or desirable in connection with the Borrower's acquisition of fee title to the Land, including but not limited to (i) any documents necessary for the Land to be replatted or subdivided; (ii) any and all documents necessary or desirable to conform any change to the legal description, and (iii) any required consent, approval or other similar document required for the Borrower to obtain fee title to the Land.

In connection with any such acquisition of fee title to the Land, the Borrower shall provide the Issuer and Trustee with an Opinion of Counsel that any documents required to be executed or consented to by either the Issuer or the Trustee are permitted under the terms of this Section 9.04 without the consent of Holders.

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ARTICLE X

SUPPLEMENTAL INDENTURES

Section 10.01. Supplemental Indentures without Consent of Holders. Without the consent of the Holders, the Issuer, when authorized by an Issuer Resolution, and the Trustee, at any time and from time to time, may enter into one (1) or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(A) to correct or amplify the description of the Trust Estate, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Subordinate Indenture, or to subject to the lien of this Subordinate Indenture additional property, or to subject to the lien and pledge of this Subordinate Indenture additional revenues, properties or collateral;

(B) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Bonds or of any series of Bonds, as herein set forth, other conditions, limitations and restrictions thereafter to be observed;

(C) to provide for the issuance of any series of Additional Bonds, as provided in, and subject to the conditions and requirements of, Article IV hereof;

(D) to add to the covenants of the Issuer, for the benefit of the Holders of the Bonds or of any series of Bonds, or to surrender any right or power herein conferred upon the Issuer;

(E) to add, modify or eliminate any provision which, in the opinion of Bond Counsel, it is necessary or desirable to add, modify or eliminate in order to preserve the exemption of interest on the Tax-Exempt Bonds from federal income taxation;

(F) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Subordinate Indenture which shall not be inconsistent with the provisions of this Subordinate Indenture, provided such action shall not adversely affect (as described in Section 10.02 hereof) the interests of the Holders; or

(G) to provide for the defeasance or redemption of any series of Bonds.

Section 10.02. Supplemental Indentures with Consent of Holders. With the consent of a Majority of Bondholders which are affected by such Supplemental Indenture, by act of said Holders delivered to the Issuer, the Borrower and the Trustee, the Issuer, when authorized by an Issuer Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Subordinate Indenture or of modifying in any manner the rights of the Holders under this Subordinate Indenture other than as set forth in Section 10.01 hereof; provided, however, that no such Supplemental Indenture shall, without the consent of each Holder affected thereby,

(A) change the Stated Maturity of the principal of, or any Interest Payment Date of, any Bond, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change the coin or currency in which any Bond or the premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date);

(B) reduce the percentage in principal amount of the Outstanding Bonds the consent of whose Holders is required for any such Supplemental Indenture, or the consent of whose Holders is required for any amendment or supplement to the Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, or for any waiver (of compliance with certain provisions of this Subordinate Indenture or certain defaults hereunder and their consequences) provided for in this Subordinate Indenture;

(C) modify any of the provisions of this Section 10.02 or Section 7.16 hereof, except to increase any such percentage or to provide that certain other provisions of this Subordinate Indenture cannot be modified or waived without the consent of each Holder affected thereby; or

(D) permit the creation of any lien ranking prior to or on a parity (except the lien of Additional Bonds) with the lien of this Subordinate Indenture on any part of the Trust Estate or reduce the preferences herein expressly provided for Bonds or terminate the lien of this Subordinate Indenture on any property at any time subject hereto, except as otherwise expressly provided herein.

For all purposes of this Section 10.02, Bonds shall be deemed to be “affected” by a Supplemental Indenture if such Supplemental Indenture adversely affects or diminishes the rights of Holders thereof against the Issuer or the Trust Estate. If the Trustee receives an Opinion of Counsel to the effect that Holders will not be adversely affected any such determination shall be conclusive upon the Holders, whether theretofore or thereafter authenticated and delivered hereunder.

It shall not be necessary for any act of Holders under this Section 10.02 to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 10.03. Execution of Supplemental Indentures. In executing or accepting the additional trust created by any Supplemental Indenture permitted by this Article X or the modification thereby of the trusts created by this Subordinate Indenture, the Trustee shall be entitled to receive, and (subject to Section 8.01 hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Subordinate Indenture and an Opinion of Bond Counsel that such Supplemental Indenture will not adversely affect the exemption from federal income taxation of interest on any Outstanding Tax-Exempt Bond. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee’s own rights, duties or immunities under this Subordinate Indenture or otherwise.

Section 10.04. Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture under this Article X, this Subordinate Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Subordinate Indenture for all purposes and every Holder shall be bound thereby.

Section 10.05. Reference in Bonds to Supplemental Indentures. Bonds authenticated and delivered after the execution of any Supplemental Indenture pursuant to the provisions of this Article X may, and shall, if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Issuer shall so determine, new Bonds so modified as to conform in the opinion of the Trustee and the Issuer to any such Supplemental Indenture may be prepared and executed by the appropriate officials of the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Bonds.

Section 10.06. Consent of Borrower. The Trustee must obtain a Borrower Consent prior to any Supplemental Indenture becoming effective, unless there is a subsisting Event of Default by the Borrower under the Subordinate Loan Agreement.

ARTICLE XI

COVENANTS

Section 11.01. Payment of Principal, Premium and Interest. Solely from the money derived from the Subordinate Loan Agreement (other than to the extent payable out of proceeds of the Bonds, amounts in the Trust Funds, the Net Proceeds of insurance or condemnation awards or proceeds of the sale or other disposition of the Mortgaged Property under the Subordinate Mortgage), the Issuer will duly and punctually pay the principal of, premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and this Subordinate Indenture. Money derived from the Subordinate Loan Agreement includes all money derived from the Granting Clauses set forth herein, including, but not limited to, Loan Repayments under the Subordinate Loan Agreement and Trust Money deposited under this Subordinate Indenture. Nothing in the Bonds or in this Subordinate Indenture or the Subordinate Loan Agreement shall be considered as assigning or pledging funds or assets of the Issuer other than those covered by the Granting Clauses set forth herein.

Section 11.02. Unclaimed Money. Any money deposited with the Trustee pursuant to the terms of this Subordinate Indenture for the payment or redemption of Bonds, or the payment of interest on Bonds that remains unclaimed by the Holders of the Bonds on the date fixed for the payment or redemption of such Bonds, shall be transferred to the appropriate governmental authorities upon the expiration of the escheat period in accordance with the escheat laws applicable to each of the Holders of the Bonds.

Section 11.03. Tax-Free Nature of the Tax-Exempt Bonds. The Issuer covenants and agrees for the benefit of the Bondholders that it shall not permit any thing or act under its control to be done intentionally which the Issuer knows would result in loss of tax exemption of interest on the Tax-Exempt Bonds that are purported to be tax exempt under the Code and the regulations promulgated thereunder. The Trustee covenants and agrees for the benefit of the Bondholders that it shall not permit any thing or act under its control to be done intentionally which the Trustee knows would result in loss of tax exemption of interest on the Tax-Exempt Bonds that are purported to be tax exempt under the Code and the regulations promulgated thereunder.

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ARTICLE XII

REDEMPTION

Section 12.01. Right of Redemption. The Bonds of any series are subject to redemption as provided in this Article XII and in the Supplemental Indenture creating such series (except with respect to the Series 2025B Bonds, as to which no Supplemental Indenture is necessary).

Section 12.02. Election to Redeem; Notice to Trustee. With respect to redemption pursuant to Section 3.05(A) or (B) hereof, the election of the Borrower to redeem any Bonds shall be evidenced by a Borrower Order. The Borrower shall, not less than forty-five (45) days prior to the Redemption Date fixed by the Borrower (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Bonds of such series to be redeemed. Any redemption of Term Bonds made in accordance with Section 3.05 hereof or a similar provision of a Supplemental Indenture shall not require any action by the Borrower.

Section 12.03. [Reserved].

Section 12.04. Selection by Trustee of Bonds to Be Redeemed.

(A) If less than all of the Outstanding Bonds of any series are to be redeemed, the Borrower may specify, by Borrower Order, the Stated Maturities of the Bonds to be redeemed or may instruct the Trustee to redeem Bonds by random selection. If less than all Bonds of a single Stated Maturity are to be redeemed, the particular Bonds to be redeemed shall be selected by the Trustee from the Outstanding Bonds of that Stated Maturity not previously called for redemption, by random selection or in such manner as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions of the principal of Bonds in a denomination larger than \$25,000 or the smallest Authorized Denomination of the Bonds of that series.

(B) The Trustee shall promptly notify the Issuer and the Borrower in writing of the Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

(C) For all purposes of this Subordinate Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed only in part, to the portion of the principal of such Bond which has been or is to be redeemed.

(D) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the Issuer or the Bond Registrar will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed.

Section 12.05. Notice of Redemption.

(A) Except as provided in Section 12.03 hereof, the Trustee shall mail notice of redemption by first-class mail, postage prepaid, not more than sixty (60) nor less than thirty (30) days prior to the Redemption Date, to each Holder of Bonds to be redeemed; but no defect in any notice so mailed shall affect the validity of the proceedings for redemption as to any Bond not affected by such defect.

(B) No notice of redemption need be given if the Holders of all Bonds called for redemption waive notice thereof in writing and such waiver is filed with the Trustee. In addition, pursuant to a Borrower Request, notice for any redemption not occurring as a result of sinking fund redemption or as a mandatory requirement of the terms of the Bonds, shall include a statement that the redemption so noticed is conditioned on sufficient funds being held by the Trustee in the Debt Service Fund or Optional Redemption Fund on or before noon, Minneapolis, Minnesota time, on the applicable Redemption Date to pay the full Redemption Price, and if at such time the amount so held is not sufficient to pay all amounts required to effect the noticed redemption in full, the redemption shall be cancelled, with all Bonds tendered for such redemption being returned to the Holders thereof, and no Event of Default or liability on the part of the Borrower shall arise as a result of such cancellation. The Borrower shall pay all extraordinary fees and expenses incurred in connection with a rescinded call.

(C) All notices of redemption shall state:

- (i) the Redemption Date;
- (ii) the Redemption Price;
- (iii) the principal amount of Bonds of each series to be redeemed, and, if less than all Outstanding Bonds of a series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds of such series to be redeemed;
- (iv) that on the Redemption Date, the Redemption Price will become due and payable upon each such Bond, and that interest thereon shall cease to accrue on and after such date;
- (v) the place or places where such Bonds are to be surrendered for payment of the Redemption Price;
- (vi) if it be the case, that such Bonds are to be redeemed by the application of certain specified Trust Money or for certain specified reasons; and
- (vii) such other information as may be required by DTC, so long as any Bonds are registered in the name of Cede & Co.

(D) Notwithstanding the foregoing, so long as the Bonds are registered in the name of Cede & Co., notice of redemption shall be given in accordance with the terms of the Letter of Representations.

Section 12.06. Deposit of Redemption Price. On or prior to each Redemption Date, the Borrower shall deposit with the Trustee an amount of money and at a time sufficient to pay the Redemption Price of all the Bonds to be redeemed on that date. The deposit for redemption of Bonds on a Redemption Date is not required hereunder prior to the Trustee sending a notice of redemption pursuant to Section 12.05 hereof.

Section 12.07. Bonds Payable on Redemption Date.

(A) Notice of redemption having been given as aforesaid, the Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and on and after such date (unless the Borrower shall default in the payment of the Redemption Price) such Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with such notice, such Bond shall be paid at the Redemption Price. Installments of interest whose Stated Maturity is on or prior to the Redemption Date shall continue to be payable to the Holders of Bonds registered as such on the relevant Record Dates according to the terms of such Bonds and Section 2.09 hereof.

(B) If any Bond called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date or Sinking Fund Payment Date at the rate prescribed by the Bond.

Section 12.08. Bonds Redeemed in Part. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (with, if the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the appropriate officials of the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds of the same series, of any Authorized Denominations, as requested by such Holder, having the same Stated Maturity and interest rate in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

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ARTICLE XIII

SECONDARY MARKET DISCLOSURE

Section 13.01. Secondary Market Disclosure. Pursuant to Section 7.13 of the Subordinate Loan Agreement and the Continuing Disclosure Agreement, the Borrower has undertaken all responsibility for compliance with continuing disclosure requirements, and the Issuer shall not have any liability to the Holders of the Bonds or any other person with respect to S.E.C. Rule 15c2-12. Notwithstanding any other provision of this Subordinate Indenture, failure of the Borrower or the Dissemination Agent to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default, however, the Trustee may (and, at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of Outstanding Bonds, shall, subject to Section 8.03(E) hereof) or any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under Section 7.13 of the Subordinate Loan Agreement or to cause the Dissemination Agent to comply with its obligations under the Disclosure Agreement.

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ARTICLE XIV

MISCELLANEOUS

Section 14.01. Compliance with Certificates and Opinions.

(A) Upon any application or request by the Issuer or the Borrower to the Trustee or the Borrower to the Issuer to take any action under any provision of this Subordinate Indenture, the Subordinate Mortgage or the Subordinate Loan Agreement, the Issuer or the Borrower shall furnish the Issuer or the Trustee, as the case may be, an Issuer Certificate or a Borrower Certificate, as applicable, stating that all conditions precedent, if any, provided for in this Subordinate Indenture, the Subordinate Mortgage or the Subordinate Loan Agreement relating to the proposed action have been complied with and an Opinion of Counsel opining that all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of a Borrower Certificate and an Opinion of Counsel is specifically required by any provision of this Subordinate Indenture, the Subordinate Mortgage or the Subordinate Loan Agreement relating to such particular application or request, no additional certificate or opinion need be furnished.

(B) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Subordinate Indenture or the Subordinate Loan Agreement shall include:

(i) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(ii) a statement that, in the opinion of each such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with;

(iii) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with; and

(iv) when such opinion or certificate is required to be given by a Person who is Independent, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the signer is Independent within the meaning thereof.

Section 14.02. Form of Documents Delivered to Trustee.

(A) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one (1) such Person, or that they be so certified or covered by only one (1) document, but one (1) such Person may certify or give an opinion with respect to some matters and one (1) or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one (1) or several documents.

(B) Any certificate or opinion of an officer of the Issuer or the Borrower may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer or the Borrower stating that the information with respect to such factual matters is in the possession of the Issuer or the Borrower, unless such counsel

knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(C) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under the Subordinate Loan Agreement or this Subordinate Indenture, they may, but need not, be consolidated and form one (1) instrument.

(D) An “application” for the authentication and delivery of Bonds, or the release of property, or the withdrawal of cash, under any provision of the Subordinate Loan Agreement or this Subordinate Indenture, shall consist of, and shall not be deemed complete until the Issuer or the Trustee, as the case may be, shall have been furnished with, all such documents, cash, bonds, securities and other instruments as are required by such provision to establish the right of the Issuer or the Borrower to the transaction applied for, and the date of such application shall be deemed to be the date upon which such application shall be so completed.

(E) Wherever in the Subordinate Loan Agreement or this Subordinate Indenture, in connection with any application or certificate or report to the Issuer or the Trustee, as the case may be, it is provided that the Issuer or the Borrower shall deliver any document as a condition of the granting of such application, or as evidence of the Issuer’s or Borrower’s compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such application or at the effective date of such certificate or report (as the case may be), of the facts and opinions stated in such document shall in each such case be conditions precedent to the right of the Issuer or Borrower to have such application granted or to the sufficiency of such certificate or report.

Section 14.03. Acts of Holders.

(A) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Subordinate Indenture to be given or taken by Holders may be embodied in and evidenced by one (1) or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer and/or the Borrower. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Subordinate Indenture and (subject to Section 2.10 hereof) conclusive in favor of the Trustee, the Issuer and the Borrower if made in the manner provided in this Section 14.03.

(B) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Persons executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(C) The fact and date of execution of any such instrument or writing may also be provided in any other manner which the Trustee deems sufficient; and the Trustee may in any instance require further proof with respect to any of the matters referred to in this Section 14.03.

(D) The ownership of Bonds shall be proved by the Bond Register.

(E) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder shall bind every future Holder of the same Bond and the Holder of every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee, the Issuer or the Borrower in reliance thereon, whether or not notation of such action is made upon such Bond.

Section 14.04. Notices to Trustee, Issuer, Borrower, Etc. Any request, demand, authorization, direction, notice, consent of Bondholders or other document provided or permitted by this Subordinate Indenture shall be sufficient for any purpose under this Subordinate Indenture, the Subordinate Loan Agreement, or the Subordinate Mortgage, when given by Electronic Notice, delivered by commercial overnight delivery service with delivery confirmed, or hand delivered or mailed by either first-class or registered mail, return receipt requested, postage prepaid (except as otherwise provided in this Subordinate Indenture) at the following addresses (or such other address as may be provided by any party by notice) and shall be deemed to be effective upon receipt:

To the Issuer:	City of Brainerd 501 Laurel Street Brainerd, MN 56401 Attention: City Administrator
To the Borrower:	Country Manor Campus Brainerd LLC 520 First Street NE Sartell, MN 56377 Attention: []
With a copy to:	Wornson Goggins Zard Neisen Morris & Brever, PC 119 East Main Street New Prague, MN 56071 Attention: Eric B. Brever, Esq.
To the Trustee:	U.S. Bank Trust Company, National Association 111 East Fillmore Avenue EP-MN-WS3C Saint Paul, MN 55107 Attention: Corporate Trust Services
To the Original Purchaser of the Series 2025B Bonds:	Colliers Securities LLC 90 South Seventh Street, Suite 4300 Minneapolis, MN 55402 Attention: Public Finance

Section 14.05. Notices to Bondholders; Waiver. Where this Subordinate Indenture provides for notice to Bondholders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Bondholder affected by such event, at his or her or its address as it appears on the Bond Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Bondholders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Bondholder shall affect the sufficiency of such notice with respect to other Bondholders.

Where this Subordinate Indenture provides for “notice in any manner,” such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondholders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.06. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 14.07. Successors and Assigns. All covenants and agreements in this Subordinate Indenture by the Issuer shall bind its successors, whether so expressed or not.

Section 14.08. Separability Clause. In case any provision in this Subordinate Indenture or in the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.09. Execution and Counterparts. This Subordinate Indenture may be executed in any number of counterparts. All such counterparts shall be deemed to be originals and shall together constitute one (1) and the same instrument.

Section 14.10. Construction. This Subordinate Indenture shall be construed in accordance with the laws of the State.

Section 14.11. Benefit of Subordinate Indenture. Nothing in this Subordinate Indenture or in the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the Borrower and the Holders, any benefit or other legal or equitable right, remedy or claim under this Subordinate Indenture.

Section 14.12. Limitation of Liability. It is understood and agreed by the Trustee and the Holders that no covenant, provision or agreement of the Issuer herein or in the Bonds or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Bonds, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to the Subordinate Loan Agreement and the application of revenues therefrom for payment of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement therein shall subject the Issuer to liability for any claim for damages, cost or other financial or pecuniary charges except to the extent that the same can be paid or recovered from the Subordinate Loan Agreement or revenues therefrom or proceeds of the Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to the Subordinate Loan Agreement and the application of revenues hereunder as hereinabove provided. The Bonds constitute special, limited obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to the Subordinate Loan Agreement and this Subordinate Indenture, and do not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, the State or any political subdivision thereof or a charge against the Issuer’s general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Holders that the Issuer shall incur no pecuniary liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment of the Bonds.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

Section 14.13. Respecting the Subordinate Loan Agreement.

(A) With regard to any alleged default concerning which notice is given to the Borrower under the provisions of Section 7.01(C) hereof, the Issuer hereby appoints the Borrower as its attorney, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform; provided that the Borrower shall first give the Issuer notice of its intention so to perform on behalf of the Issuer.

(B) Certain of the covenants of the Issuer hereunder will be assumed by the Borrower in the Subordinate Loan Agreement, and, while the Subordinate Loan Agreement remains in full force and effect, the obligations shall be the responsibility of the Borrower, or, if the Subordinate Loan Agreement is terminated, then such covenants are enforceable only to the extent of the revenues derived from the property subject to the lien of the Subordinate Mortgage or any Collateral Document, or from the Trust Money held by the Trustee.

(C) The rights and duties given under this Subordinate Indenture to the Borrower shall be applicable only while the Subordinate Loan Agreement is in full force and effect.

Section 14.14. Electronic Signatures.

(A) The parties agree that the electronic signature of a party to this Subordinate Indenture shall be as valid as an original signature of such party and shall be effective to bind such party to this Subordinate Indenture. The parties agree that any electronically signed document (including this Subordinate Indenture) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

(B) For purposes hereof, (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; (ii) “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature; (iii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a pdf or other replicating image attached to an e-mail message; and (iv) “pdf” means portable document format.

Section 14.15. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts

of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

(The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Subordinate Indenture of Trust to be executed in their respective corporate names by their duly authorized officers, all as of the date and year first written above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the Trustee to the Subordinate Indenture of Trust dated as of the date and year first written above.

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

By _____
Its Vice President

EXHIBIT A

FORM OF SERIES 2025B BOND

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF CROW WING
CITY OF BRAINERD

No. R-1

\$[Par B]

SUBORDINATE SENIOR HOUSING AND HEALTHCARE REVENUE BOND
(PINECREST OF COUNTRY MANOR PROJECT)
SERIES 2025B

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
[]%	May 1, 20[]	[] [], 2025	

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS (\$[Par B])

The City of Brainerd, Minnesota (the “Issuer”), for value received, hereby promises to pay to the registered Holder named above, or registered assigns, upon surrender hereof at the principal corporate trust office of the Trustee named below, solely from the source and in the manner hereinafter provided, on the Maturity Date specified above, the principal amount specified above and to pay interest thereon from the Date of Original Issue specified above, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on May 1 and November 1, commencing [**November 1, 2025**], from the source and in the manner hereinafter provided, until such principal amount is paid or duly provided for at the rate per annum specified above, and at the same rate (to the extent that the payment of such interest shall be legally enforceable) on any Defaulted Interest, all except as the provisions below with respect to redemption of this Bond may become applicable hereto. Payment of the principal of, premium, if any, and interest on this Bond shall be made in coin or currency of the United States of America which at the time of payment is legal tender for payment of public and private debts. Interest so payable, and punctually paid or duly provided for, on any Interest Payment Date, will be paid by check or draft to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall be paid by check or draft to the person in whose name this Bond is registered at the close of business on a special record date fixed by the Trustee pursuant to the Subordinate Indenture hereafter referred to.

This Bond is one of a duly authorized issue of obligations of the Issuer designated as the “Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B” (the “Series 2025B Bonds”), all secured by an Subordinate Indenture of Trust, dated as of April 1, 2025 (the “Subordinate Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, Saint Paul, Minnesota, a national banking association (the “Trustee”), to which Subordinate Indenture and all indentures supplemental thereto, copies of which are on file with the Trustee, reference is

hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Holders of the Series 2025B Bonds, the Trustee and the Issuer and the terms upon which the Series 2025B Bonds are issued and are to be authenticated and delivered. As provided in the Subordinate Indenture, the Series 2025B Bonds are issuable in series which may vary as in the Subordinate Indenture provided or permitted.

Capitalized terms used herein but otherwise not defined shall have the meaning given to them in the Subordinate Indenture.

The Series 2025B Bonds are issued by the Issuer in the original aggregate principal amount of \$[Par B], pursuant to the Subordinate Indenture, Minnesota Statutes, Chapter 462C, as amended, and Sections 469.152 through 469.1655, as amended, and a resolution adopted by the City Council of the Issuer on March 17, 2025, for the purpose of making a loan (the “Loan”) under a Subordinate Loan Agreement, dated as of April 1, 2025 (the “Subordinate Loan Agreement”), between the Issuer and Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The proceeds of the Series 2025B Bonds, along with funds of the Borrower, will be used by the Borrower to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a day care to be located on the Property (the “Day Care Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; (iv) fund required reserves; (v) finance capitalized interest; and (iv) pay costs of issuance of the Series 2025B. Pursuant to the Subordinate Loan Agreement, the Borrower has agreed to repay the Loan, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Series 2025B Bonds as the same shall become due and payable. Pursuant to the Subordinate Combination Construction Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the “Mortgage”), by the Borrower in favor of the Trustee, the Borrower has granted to the Trustee for the equal and ratable benefit of the Holders of the Series 2025B Bonds a subordinate mortgage lien on and security interest in substantially all of the real and personal property comprising the Project (the “Mortgaged Property”). Reference is hereby made to the Subordinate Loan Agreement and the Mortgage, copies of which are on file with the Trustee, for a description of the agreements and covenants contained therein and a description of the Mortgaged Property. By the Subordinate Indenture the Issuer has pledged and granted to the Trustee a security interest in the Issuer’s interest in the Subordinate Loan Agreement (except for the Issuer’s Unassigned Rights).

The Series 2025B Bonds are special, limited obligations of the Issuer. The Series 2025B Bond and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, due hereunder are payable by the Issuer solely from the revenues and proceeds derived from the Subordinate Loan Agreement, do not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation, are not payable from or a charge upon any funds of the Issuer other than the revenues and proceeds pledged by the Issuer to the payment hereof, and do not give rise to a pecuniary liability of the Issuer nor of any of its officers, agents, or employees, and no holder of this Bond shall ever have the right to compel any exercise of the taxing power of the Issuer or the state or any of its political subdivisions to pay this Bond or the interest hereon or any penalty, charge, or premium or any amounts payable hereunder, however designated, due hereunder, or to enforce payment thereof against any property of the Issuer, and the Series 2025B Bonds and the interest hereon and any penalty, charge, or premium, or any amounts payable hereunder, however designated, do not constitute a charge, lien, or

encumbrance, legal or equitable, upon any property of the Issuer and the agreement of the Issuer to perform or cause the performance of the covenants and other provisions herein referred to shall be subject at all times to the availability of revenues or other funds or property furnished for such purpose in accordance with the Subordinate Loan Agreement, sufficient to pay all costs of such performance or the enforcement thereof. The Series 2025B Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Series 2025B Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Series 2025B Bonds. The provisions of this paragraph shall, for purposes of this Series 2025B Bond, be controlling and shall be given full force and effect, anything else to the contrary in this Series 2025B Bond notwithstanding.

The Series 2025B Bonds shall be subject to redemption prior to maturity only as follows:

(A) Optional Redemption. The Series 2025B Bonds maturing on and after May 1, 20[___] are subject to redemption at the option of the Borrower, evidenced by Borrower Request, on May 1, 20[___], and on any date thereafter, in whole or in part and in compliance with Article XII of the Subordinate Indenture, and if in part from Stated Maturities specified in such Borrower Request, and as to Series 2025B Bonds of the same Stated Maturity by random selection or in such manner as deemed fair by the Trustee, at a redemption price equal to their principal amount and accrued interest, plus a premium (expressed as a percentage of the principal amount of the Series 2025B Bonds so redeemed) set forth below:

<u>Redemption Date</u>	<u>Redemption Premium</u>
May 1, 20___ through April 30, 20___	%
May 1, 20___ through April 30, 20___	
May 1, 20___ and thereafter	

(B) Extraordinary Redemption. The Series 2025A Bonds are subject to extraordinary redemption on any Business Day in whole, or in part, at a redemption price equal to par, plus accrued interest to the redemption date, if certain events of damage to or destruction or condemnation of any of the Project occur.

(C) Mandatory and Scheduled Sinking Fund Redemption. The Series 2025B Bonds are subject to mandatory sinking fund redemption as provided in the Subordinate Indenture. The Series 2025B Bonds shall be redeemed without further direction from the Borrower on May 1 of the years indicated in the Subordinate Indenture in the principal amounts at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

(D) Redemption upon a Determination of Taxability. The Series 2025B Bonds are also subject to mandatory redemption upon the occurrence of a Determination of Taxability with respect to the Series 2025B Bonds. In such event, each of the Outstanding Series 2025B Bonds shall be subject to mandatory redemption and shall be redeemed on the first Business Day for which notice can be duly given under the Subordinate Indenture after the Borrower receives notice that a Determination of Taxability has occurred, and the Borrower shall cause notice thereof to be given to the Holders of the Series 2025B Bonds, as more fully provided in the Subordinate Loan Agreement, at a redemption price equal to par, plus accrued interest.

For all other redemptions, notice of redemption shall be published, if required by applicable law, and mailed by first-class mail not more than sixty (60) nor less than thirty (30) days before the redemption date to each Holder of Series 2025B Bonds to be redeemed, but no defect in or failure to give such notice of redemption shall affect the validity of proceedings for redemption of any Series 2025B Bond not affected thereby. All Series 2025B Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption have been duly deposited, and, except for the purpose of payment, shall no longer be protected by the Subordinate Indenture and shall not be deemed Outstanding under the provisions of the Subordinate Indenture; provided however, that so long as the Series 2025B Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the Issuer and DTC.

In addition, at the request of the Authorized Borrower Representative, notice for any redemption not occurring as a result of sinking fund redemption or as a mandatory requirement of the terms of the Series 2025B Bonds, shall include a statement that the redemption so noticed is conditioned on sufficient funds being held by the Trustee in the Debt Service Fund or Optional Redemption Fund on or before noon, Minneapolis, Minnesota time, on the applicable redemption date to pay the full redemption price, and if at such time the amount so held is not sufficient to pay all amounts required to effect the noticed redemption in full, the redemption shall be cancelled, with all Series 2025B Bonds tendered for such redemption being returned to the Holders thereof, and no Event of Default or liability on the part of the Borrower shall arise as a result of such cancellation. The Borrower shall pay all extraordinary fees and expenses incurred in connection with a rescinded call. Upon the happening of the above conditions, Series 2025B Bonds thus called shall not bear interest after the call date and, except for the purpose of payment, from the funds so deposited, shall no longer be protected by the Subordinate Indenture.

If less than all the Series 2025B Bonds of a maturity are called for redemption while the Series 2025B Bonds are registered in the name of Cede & Co., the Issuer or the Trustee will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Series 2025B Bonds of a maturity are called for redemption and the Series 2025B Bonds are not registered in the name of Cede & Co., the Trustee will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed.

It is provided in the Subordinate Indenture that Series 2025B Bonds of a denomination larger than \$25,000 may be redeemed in part (\$5,000 or an integral multiple thereof) and that upon a partial redemption of any such Series 2025 Bond the same shall be surrendered in exchange for one (1) or more new Series 2025B Bonds in authorized form for the unredeemed portion of principal.

If provision is made for the payment of principal of, premium, if any, and interest on this Bond in accordance with the Subordinate Indenture, this Bond shall no longer be deemed Outstanding under the Subordinate Indenture, shall cease to be entitled to the benefits of the Subordinate Indenture, the Subordinate Loan Agreement and the Mortgage, and shall thereafter be payable solely from the funds provided for such payment.

If an Event of Default, as defined in the Subordinate Indenture, shall occur, the principal of all of the Series 2025B Bonds may be declared due and payable in the manner and with the effect provided in the Subordinate Indenture.

The Holder of this Bond shall have no right to enforce the provisions of the Subordinate Indenture, the Subordinate Loan Agreement or the Mortgage, to institute action to enforce the covenants therein, to

take any action with respect to a default under the Subordinate Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Subordinate Indenture.

As provided in the Subordinate Indenture and subject to certain limitations therein set forth, this Bond is transferable on the Bond Register upon surrender of this Bond for transfer to the Trustee duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one (1) or more new Series 2025B Bonds of the same series, of authorized denominations, for the same aggregate principal amount and of the same Stated Maturity and interest rate will be issued to the designated transferee or transferees.

The Series 2025B Bonds are issuable only in registered form without coupons in the denomination of \$25,000 or any integral multiple of \$5,000 in excess thereof.

No service charge shall be made for any transfer or exchange hereinbefore referred to, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Issuer, the Trustee and any agent of the Issuer may treat the person in whose name this Bond is registered as the absolute owner hereof for all purposes whether or not this Bond is overdue, and neither the Issuer, the Trustee nor any such agent shall be affected by notice to the contrary.

It is hereby certified and recited that all conditions, acts and things required to exist, happen and be performed precedent to or in the issuance of this Bond and the issue of which it is a part, do exist, have happened and have been performed in regular and due form as required by law.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature, this Bond shall not be entitled to any benefit under the Subordinate Indenture or be valid or obligatory for any purpose.

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

IN WITNESS WHEREOF, the Issuer has caused this Series 2025B Bond to be executed in its name by the manual or facsimile signatures of its duly authorized officers, all as of the Date of Original Issue specified above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

CERTIFICATE OF AUTHENTICATION

This is one of the Series 2025B Bonds described in the within mentioned Subordinate Indenture.

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

By _____
Authorized Signature

Date: [____], 2025

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the
_____ within Bond and does hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the within Bond on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF
ASSIGNEE _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever. Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Trustee in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT B

**FORM OF REPAIR AND REPLACEMENT RESERVE FUND
DRAW REQUEST**

Requisition No. _____

Date: _____

To: U.S. Bank Trust Company, National Association (the "Trustee")

Re: Draw from Repair and Replacement Reserve Fund in accordance with the Subordinate Indenture of Trust, dated as of April 1, 2025 (the "Subordinate Indenture"), between the City of Brainerd, Minnesota (the "Issuer") and the Trustee, and the Subordinate Loan Agreement, dated as of April 1, 2025 (the "Subordinate Loan Agreement"), between the Issuer and Country Manor Campus Brainerd LLC (the "Borrower")

The undersigned Borrower representative designated pursuant to the terms of the Subordinate Indenture and Subordinate Loan Agreement, requests that there be paid from the Repair and Replacement Reserve Fund the sum set forth below, and in that connection with respect to the use of the monies thereunder, I CERTIFY, as follows:

1. An obligation in each of the amounts set forth below has been incurred in connection with the improvement or equipping of the Project, and such obligation or amount represents a depreciable cost of the Project.

2. Each requested payment is (a) a proper charge against the Repair and Replacement Reserve Fund, pursuant to the Subordinate Indenture and the Subordinate Loan Agreement, (b) is not duplicative of any previous withdrawal from such Fund, (c) is fair and reasonable and (d) the payee, purpose and amount of such obligation are described below:

Payee

Name and Address

Purpose

Amount

3. The undersigned has no notice of any vendors', materialmen's, mechanics', suppliers' or other similar liens or rights to liens, chattel mortgages or conditional sales contracts, or other contracts or obligations which should be satisfied or discharged before payment of the above-described obligations is made.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____

Name: _____

Title: _____

EXHIBIT C

**FORM OF WORKING CAPITAL FUND
DRAW REQUEST**

Requisition No. _____

Date: _____

To: U.S. Bank Trust Company, National Association (the "Trustee")

Re: Draw from Working Capital Fund in accordance with the Subordinate Indenture of Trust, dated as of April 1, 2025 (the "Subordinate Indenture"), between the City of Brainerd, Minnesota (the "Issuer") and the Trustee, and the Subordinate Loan Agreement, dated as of April 1, 2025 (the "Subordinate Loan Agreement"), between the Issuer and Country Manor Campus Brainerd LLC (the "Borrower")

The undersigned Borrower representative designated pursuant to the terms of the Subordinate Indenture and Subordinate Loan Agreement, requests that there be paid from the Working Capital Fund the sum set forth below, and in that connection with respect to the use of the monies thereunder, I CERTIFY, as follows:

1. An obligation in each of the amounts set forth below has been incurred in connection with the Project, and such obligation or amount represents a working capital cost of the Project.

2. Each requested payment is (a) a proper charge against the Working Capital Fund, pursuant to the Subordinate Indenture and the Subordinate Loan Agreement, (b) is not duplicative of any previous withdrawal from such Fund, (c) is fair and reasonable and (d) the payee, purpose and amount of such obligation are described below:

Payee

Name and Address

Purpose

Amount

3. The undersigned has no notice of any vendors', materialmen's, mechanics', suppliers' or other similar liens or rights to liens, chattel mortgages or conditional sales contracts, or other contracts or obligations which should be satisfied or discharged before payment of the above-described obligations is made.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____

Name: _____

Title: _____

SUBORDINATE LOAN AGREEMENT

between

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

and

**COUNTRY MANOR CAMPUS BRAINERD LLC,
as Borrower**

Dated as of April 1, 2025

Relating to:

**§[Par B]
City of Brainerd, Minnesota
Subordinate Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025B**

The City of Brainerd, Minnesota (the “Issuer”) has assigned and granted a security interest in its right, title and interest in this Subordinate Loan Agreement, dated as of April 1, 2025, between the Issuer and Country Manor Campus Brainerd LLC (except for the Issuer’s Unassigned Rights), to U.S. Bank Trust Company, National Association (the “Trustee”) under a Subordinate Indenture of Trust, dated as of April 1, 2025, between the Issuer and the Trustee.

This instrument was drafted by:
Kutak Rock LLP (SEL)
60 South Sixth Street, Suite 3400
Minneapolis, MN 55402

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SUBORDINATE LOAN AGREEMENT

THIS SUBORDINATE LOAN AGREEMENT, dated as of April 1, 2025 (the “Subordinate Loan Agreement”), is between the CITY OF BRAINERD, MINNESOTA, a home rule charter city and political subdivision of the State of Minnesota, organized and existing pursuant to its charter and the Constitution and laws of the State of Minnesota (the “Issuer”), and COUNTRY MANOR CAMPUS BRAINERD LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Sole Member”).

RECITALS:

Reference is hereby made to the Subordinate Indenture of Trust, dated as of April 1, 2025 (the “Subordinate Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”), for the recitals and the definitions of various terms used herein.

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ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1. Definitions. Capitalized terms used but not defined herein and not required to be otherwise capitalized are used with the meanings, if any, ascribed thereto in the Subordinate Indenture or the Mortgage.

Section 1.2. Construction. For all purposes of this Subordinate Loan Agreement, except as otherwise expressly provided or unless the context clearly otherwise requires:

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

(b) The words “herein,” “hereof,” and “hereunder,” and other words of similar import, without reference to any particular Article, Section or subdivision, refer to this Subordinate Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP.

(d) All computations herein provided for shall be made in accordance with GAAP.

Section 1.3. Compliance Certificates and Opinions. All certificates delivered under this Subordinate Loan Agreement or the Subordinate Indenture shall comply with the provisions of Article XIV of the Subordinate Indenture.

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ARTICLE II

REPRESENTATIONS OF THE ISSUER; REPRESENTATIONS, WARRANTIES AND COVENANTS BY THE BORROWER

Section 2.1. Representations by the Issuer. As of the Closing Date of the Series 2025B Bonds, the Issuer represents to the Borrower:

(a) The Issuer is a home rule charter city and political subdivision of the State, organized and existing pursuant to its charter and the Constitution and laws of the State.

(b) On March 17, 2025, the City Council of the Issuer held a regularly scheduled meeting of the City Council, duly called and convened, on which date it conducted a public hearing, and gave approval to issuance of the Series 2025B Bonds.

(c) To the actual knowledge of the Issuer, there is no litigation pending, or threatened, against the Issuer, questioning the Issuer's execution and delivery of the Series 2025B Bonds, the Subordinate Indenture, the BQ Fee Agreement, the Bond Purchase Agreement, or this Subordinate Loan Agreement, or the assignment of certain Issuer's rights under this Subordinate Loan Agreement to the Trustee (excluding the Issuer's Unassigned Rights), or questioning the powers or authority of the Issuer under the Act, or questioning the corporate existence or boundaries of the Issuer or the title of any of the present officers of the Issuer to their respective offices.

(d) To the actual knowledge of the undersigned officials of the Issuer, the Issuer's execution and delivery of the Series 2025B Bonds, the Subordinate Indenture, the BQ Fee Agreement, the Bond Purchase Agreement, or this Subordinate Loan Agreement and the assignment to the Trustee of the Issuer's rights under this Subordinate Loan Agreement (with the exception of the Issuer's Unassigned Rights) does not materially violate any agreement or any court order or judgment in any litigation to which the Issuer is a party or by which it is bound.

Section 2.2. Representations, Warranties and Covenants by the Borrower. As of the Closing Date of the Series 2025B Bonds, the Borrower represents, warrants and covenants with the Issuer as follows:

(a) The Borrower is a nonprofit limited liability company duly incorporated under the laws of the State, is in good standing and duly authorized to conduct its business in the State, and is duly authorized and has full power under the laws of the State and all other applicable provisions of law and its articles of organization and operating agreement to create, issue, enter into, execute and deliver the Borrower Documents. The Borrower has full power and authority to undertake its actions and responsibilities as contemplated by this Subordinate Loan Agreement.

(b) The Sole Member is a Tax-Exempt Organization, and the trade or business to be carried on by the Borrower or the Sole Member in or with respect to the Project is not an unrelated trade or business, determined by applying Section 513(a) of the Code, to any extent which will adversely affect the tax-exempt status of the interest to be paid on any Tax-Exempt Bonds. The Sole Member has not declared and has not been determined to have an amount of "unrelated business taxable income" as defined in Section 512 of the Code which could have a material adverse effect on the Sole Member's status as a Tax-Exempt Organization or which, if such income were subject to federal income taxation, would have a material adverse effect on the condition, financial or otherwise, of the Sole Member.

(c) The execution and delivery of the Bond Purchase Agreement relating to the Series 2025B Bonds and the other Borrower Documents, the consummation of the transactions contemplated hereby and thereby, and the fulfillment of the terms and conditions hereof and thereof do not conflict with or result in a breach of any of the terms or conditions of the articles of organization or operating agreement of the Borrower or of any corporate restriction or of any agreement or instrument to which the Borrower is now a party, and do not constitute a default under any of the foregoing, or result in the creation or imposition of any liens, charges or encumbrances of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement.

(d) The Borrower has obtained or will obtain all requisite approvals of the State and other federal, state, regional and local governmental bodies for the sale and issuance of the Series 2025B Bonds and application of the proceeds thereof as contemplated by this Subordinate Loan Agreement and the Subordinate Indenture, other than Blue Sky Laws, as to which no representation is given; and the Project is in compliance with applicable federal, state and local zoning and subdivision laws, regulations, codes and ordinances applicable as of the date hereof, and, to the Borrower's knowledge, is in compliance with applicable federal, state and local environmental, pollution control and building laws, regulations, codes and ordinances applicable as of the date hereof.

(e) The Borrower does not rely on any warranty of the Issuer, either express or implied, that the Project will be suitable to the needs of the Borrower and recognizes that under the Act the Issuer is not authorized to expend any funds on the Project other than the revenues received by it hereunder or the proceeds of the Bonds or other funds granted to it for the purposes contemplated in the Act.

(f) All proceeds of the Series 2025B Bonds shall be used to (i) finance costs of the acquisition, construction, and equipping of the Project; (ii) refinance the Prior Taxable Debt; (iii) fund required reserves; (iv) finance capitalized interest; and (v) pay Costs of Issuance for the Series 2025B Bonds. The proceeds of the Series 2025B Bonds, together with the proceeds of the Senior Bonds and any other funds to be contributed to financing the Project by or on behalf of the Borrower in accordance with this Subordinate Loan Agreement and the Senior Loan Agreement, will be sufficient to pay all the costs of such financing.

(g) Subject only to Section 5.2 hereof, the Borrower intends to own and operate the Project, as provided herein, except to the extent such operation may be interrupted by strikes, riots, acts of nature or public enemy or other circumstances beyond the control of the Borrower.

(h) The Borrower has a fee title interest in the Land. There are no liens or encumbrances on the Project except Permitted Encumbrances.

(i) The Borrower has not received any notice that it is not in compliance with any provisions of Environmental Laws, or with any rules, regulations and administrative orders of any governmental agency, or with any judgments, decrees or orders of any court of competent jurisdiction with respect thereto; and the Borrower has not received any assessment, notice (primary or secondary) of liability or financial responsibility, and no notice of any action, claim or proceeding to determine such liability or responsibility, or the amount thereof, or to impose civil penalties with respect to a site listed on any federal or State listing of sites containing or believed to contain Hazardous Substances, nor has the Borrower received notification that any Hazardous Substances that it has disposed of have been found in any site at which any governmental agency is conducting an investigation or other proceeding under any Environmental Law. The Borrower has or has caused to be obtained all necessary and material approvals and licenses, permits, consents and franchises from federal, State, municipal or other governmental authorities having jurisdiction over the Project and to enter into, execute and perform its obligations under this Subordinate Loan Agreement required on the date hereof.

(j) There is not pending any suit, action or proceeding against or affecting the Borrower before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the Borrower, of any of the transactions contemplated hereby or the ability of the Borrower to perform its obligations hereunder or as contemplated hereby.

(k) No member of the City Council or other officer or employee of the Issuer had any direct or indirect interest in this Subordinate Loan Agreement, the Series 2025B Bonds, the Project or any contract, agreement or job hereby contemplated to be entered into or undertaken in connection therewith.

(l) The Borrower has reviewed the Subordinate Indenture and approves its provisions, consents to its terms and agrees to abide by and perform all specific covenants and obligations contained in the Subordinate Indenture that are therein (or elsewhere) specifically made, or which may become applicable to the Borrower.

(m) The Borrower covenants that it will comply with all provisions of the Act, including without limitation any notice and filing requirements imposed under the Act.

(n) No default, or occurrence which would become a default with the giving of notice or the passing of time will constitute a default, has occurred and is continuing hereunder or under any agreement.

(o) None of the proceeds of the Series 2025B Bonds will be used, directly or indirectly, to pay or to reimburse the Borrower for the payment of, or to refund indebtedness the proceeds of which were used to pay for, costs of the acquisition, construction, renovation, remodeling or equipping or any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or other similar persons in the field of religion.

(p) The representations and certifications contained in the Borrower Tax Certificate and the other Borrower Certificates delivered on the Closing Date of the Series 2025B Bonds are true and correct and are incorporated by reference herein.

(q) To the knowledge of the Borrower, the recitals in the Subordinate Indenture and, by incorporation, this Subordinate Loan Agreement are true and correct.

(r) Either (i) the Borrower and the Sole Member have elected under Treasury Regulations, Section 301.7701-3(a), to disregard the Borrower as an entity separate from the Sole Member for federal income tax purposes, or (ii) no election has been made under Treasury Regulations, Section 301.7701-3(b)(1)(i) not to disregard the Borrower as an entity separate from Sole Member for federal income tax purposes.

(s) So long as the Bonds are Outstanding, the Borrower shall have only one (1) member, and no person other than the Sole Member shall be such member, except to the extent the Trustee receives an opinion of Bond Counsel to the effect that noncompliance with this paragraph will not cause interest on any Series 2025B Bonds and any other Outstanding Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

(t) The Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower specifically waives such notification to the extent permitted by law and shall receive periodic cash transaction statements from the Trustee that will detail all investment transactions.

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ARTICLE III

CONSTRUCTION OF THE PROJECT; ISSUANCE OF THE SERIES 2025B BONDS

Section 3.1. Agreement to Construct the Project. The Borrower shall proceed with due diligence to construct and equip the Project. The Borrower agrees to make its best efforts to complete the Project on or before the Completion Date, or such later date resulting from unavoidable delay as may be designated in a Borrower Certificate delivered to the Trustee (which certificate shall describe the unavoidable delay giving rise to the extension). In any case, there shall be no abatement or diminution in the Loan Repayments and Additional Payments required to be made by the Borrower under this Subordinate Loan Agreement.

Section 3.2. Changes in the Project. The Borrower may make any changes in the Plans and Specifications for the Project or any Construction Contract for the Project, and may make any deletions from or substitutions or additions to the Project, without the prior consent of the Issuer or the Trustee, so long as such changes in the Plans and Specifications or a Construction Contract, or deletions from or substitutions or additions to the Project, do not (a) materially impair the operating efficiency of the Project; (b) increase the cost of the Project by more than \$500,000, unless a Borrower Certificate is delivered to the Trustee stating that the Borrower has funds available to cover such increased costs and will deposit such funds in the Construction Fund prior to incurring the increased costs; or (c) violate any license, permit or approval given by the State, the Issuer, or any other governmental unit with respect to the Project.

Section 3.3. Withdrawal from the Construction Fund. An initial deposit of funds shall be made to the Construction Fund in accordance with Section 5.03 of the Subordinate Indenture. Money in the Construction Fund shall be disbursed by the Trustee to pay for, or reimburse the Borrower for its payment of, Qualified Project Costs in accordance with the terms and conditions of the Subordinate Indenture and the Disbursing Agreement. Upon the completion of the Project, which shall be the earlier of the date that is three (3) years from the Closing Date of the Series 2025B Bonds or the date that the Trustee receives a Borrower Certificate indicating that the Project is complete (the "Completion Date"), any balance then remaining in the Construction Fund shall be applied in accordance with Section 5.03 of the Subordinate Indenture.

Section 3.4. Sums for Completion. The Borrower represents that in good faith and after diligent inquiry it has determined that the Project can be completed at a price within the amount of funds available from the Series 2025B Bonds and the amounts to be deposited in the Construction Fund at closing from other sources. The Issuer and the Trustee make no representation or warranty, express or implied, that the money on hand in the Construction Fund will be sufficient to pay all Qualified Project Costs. If the Construction Fund is not sufficient to pay all Qualified Project Costs the Borrower shall nonetheless complete the Project and pay all costs incurred therefor from its own funds as provided in the Disbursing Agreement. No payments by the Borrower under this Section 3.4 shall reduce the obligations of the Borrower or offset any other payment required to be made by the Borrower hereunder or reduce the amount available to the Borrower from the Construction Fund.

Section 3.5. Agreement to Issue Series 2025B Bonds; Application of Proceeds Thereof. In order to provide funds to loan to the Borrower to finance the Project, the Issuer has, or will have, upon or promptly after the execution of this Subordinate Loan Agreement, issued and authorized delivery of the Series 2025B Bonds to or at the direction of the Original Purchaser thereof, and the Issuer has or will have deposited or authorized the deposit of the net proceeds of the Series 2025B Bonds in accordance with the Subordinate Indenture.

Section 3.6. Disbursements from Costs of Issuance Fund. The Issuer has, in the Subordinate Indenture and in an Issuer Request delivered to the Trustee on the Closing Date of the Series 2025B Bonds, authorized and directed the Trustee to use the money in the Costs of Issuance Fund for payment of the Costs of Issuance for the Series 2025B Bonds. Notwithstanding any other provision hereof, the Borrower covenants that the Costs of Issuance financed by the Series 2025B Bonds (including underwriter's discount) shall not exceed two percent (2%) of the proceeds of the Series 2025B Bonds.

Section 3.7. Obligation of Borrower to Cooperate in Furnishing Documents to Trustee. The Borrower agrees to cooperate in furnishing to the Trustee the documents and directions required to effect payments from the funds and accounts established under the Subordinate Indenture and the documents referred to in the Subordinate Indenture required for the authentication and delivery of the Series 2025B Bonds. Such obligations are subject to any provision of this Subordinate Loan Agreement or the Subordinate Indenture requiring additional documentation.

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ARTICLE IV

THE LOAN AND REPAYMENT THEREOF; ADDITIONAL PAYMENTS

Section 4.1. Loan of Bond Proceeds. The Issuer agrees to lend to the Borrower the entire proceeds of all Bonds as received by or on behalf of the Issuer upon the original issuance by the Issuer of such Bonds. For this purpose the proceeds of Bonds (and therefore the Loan) shall be deemed to include the underwriting discount, if any, or other amount by which the amount received by or on behalf of the Issuer on the original sale of any Bonds to the Original Purchaser of such series of Bonds is less than the principal amount of such Bonds. The obligation of the Issuer to lend such proceeds shall be discharged, and the obligation of the Borrower to repay the Loan shall become effective, when such proceeds are received by the Trustee from the Issuer or the Original Purchaser. The Borrower accepts the Loan from the Issuer, on the terms and conditions herein and in the Subordinate Indenture specified, by having the proceeds of the Loan applied and disbursed in accordance with the provisions of the Subordinate Indenture and the Disbursing Agreement. The Borrower also, until the proceeds of the Bonds are expended as provided in the Subordinate Indenture, grants the Trustee a security interest in such proceeds as additional security for the payment of the Bonds, excluding funds or Qualified Investments on deposit in the Rebate Fund.

Section 4.2. Loan Repayments.

(a) The Borrower agrees to repay the Loan in installments (the “Loan Repayments”), which in the aggregate (payable as provided below), shall be sufficient to pay in full and when due all the Bonds from time to time Outstanding, including (i) the total interest becoming due and payable on the Bonds to the respective dates of payment thereof whether at, before or after their Stated Maturity, (ii) the total principal amount of the Bonds, and (iii) the premium, if any, that shall be payable on the redemption of any Bonds.

(b) In addition, the Borrower agrees to pay interest on overdue installments of principal, premium, if any, and (to the extent lawful) interest on the Loan at the rate or rates borne by the Bond or Bonds as to which such installments are overdue.

(c) Without limiting the foregoing provisions of this Section 4.2, the Borrower agrees to make Loan Repayments with respect to the Series 2025B Bonds as follows:

(i) with respect to the payment of interest on the Series 2025B Bonds, (1) on or before _____ 25, 2025 and continuing on or before the twenty-fifth day of each month thereafter to and including October 25, 2025, an amount not less than one-_____ of the total amount of interest payable on the first Interest Payment Date; and (2) on or before November 25, 2025 and continuing on or before the twenty-fifth day of each month thereafter, an amount not less than one-sixth of the total amount of interest payable on the Series 2025B Bonds on the next succeeding Interest Payment Date;

(ii) with respect to the payment of principal of the Series 2025B Bonds, on or before _____ 25, 20__ and on or before the twenty-fifth day of each month thereafter, an amount not less than one-twelfth of the total amount of principal payable on the Series 2025B Bonds on the next succeeding Principal Payment Date;

(iii) notwithstanding the foregoing, any amount on deposit in the Debt Service Fund as of any Loan Repayment Date shall be credited against the amount otherwise due on said Loan Repayment Date;

(iv) on any date (other than a Sinking Fund Payment Date) on which Series 2025B Bonds are to be redeemed from amounts in the Debt Service Fund (or such later date as may be acceptable to the Trustee), an amount equal to the full amount required to pay the Redemption Price of the Series 2025B Bonds to be so redeemed, less the amount, if any, then on hand in the Debt Service Fund and available for the payment of such Redemption Price;

(v) the Borrower shall be entitled to a credit against the initial payments due under clauses (i), (ii), and (iii) above in an amount equal to the capitalized interest with respect to the Series 2025B Bonds deposited into the Capitalized Interest Fund;

(vi) in addition, if any of the payments required under this subsection (c) are not made by the Borrower, then the Trustee shall require the Sole Member to make such payments under the terms of the Subordinate Guaranty, subject to the limitations therein; and

(vii) notwithstanding the foregoing, if, on or after the last Loan Repayment Date preceding any Payment Date, the balance then on hand in the Debt Service Fund (after the Trustee having drawn on the Limited Guaranty and the Debt Service Reserve Fund) is not sufficient to pay all principal, redemption premium, if any, and interest due on the Series 2025B Bonds on the applicable Payment Date, the Borrower will forthwith pay to the Trustee on demand an amount equal to such deficiency, for credit to the Debt Service Fund.

(d) Reference is hereby made to Section 4.01 of the Subordinate Indenture, which states that prior to the issuance of any series of Additional Bonds there shall be delivered to the Trustee, among other things, an executed counterpart of an amendment to this Subordinate Loan Agreement providing for additional Loan Repayments sufficient to provide for the payment of the principal of, premium, if any, and interest on all Bonds Outstanding after the issuance of such series of Additional Bonds. Any such amendment may provide for the same or for different Loan Repayment Dates with respect to such series of Additional Bonds, but no amendment shall reduce or authorize any later payments of the Loan Repayments or postpone the dates thereof required to be made in respect of the Series 2025B Bonds pursuant to this Section 4.2.

(e) By the Subordinate Indenture the Issuer will assign to the Trustee, and grant to the Trustee a security interest in, all right, title and interest of the Issuer in and to this Subordinate Loan Agreement and to all payments hereunder (excepting the Issuer's Unassigned Rights). All Loan Repayments shall be made directly to the Trustee at its principal corporate trust office and applied in the manner provided in the Subordinate Indenture.

(f) The Loan Repayments herein provided for are subject to prepayment and to certain credits, as provided above and in Section 8.1 hereof.

Section 4.3. Additional Payments. In addition to the Loan Repayments, the Borrower agrees to pay to the Issuer and to pay or deposit with the Trustee when due, as Additional Payments, the following:

(a) The Borrower shall reimburse the Issuer, upon demand, for all costs and expenses, including without limitation, attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of the Bonds, the Subordinate Indenture, the Borrower Documents, and the documents and instruments related thereto; (ii) any

amendments or modifications to any of the foregoing documents, instruments or agreements and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; (iii) servicing and administering the Loan during the term hereof or thereafter; and (iv) enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or under the foregoing documents, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto. The Borrower shall also pay the reasonable fees of the Trustee and all other costs and expenses of paying the Bonds and making, administering and collecting the Loan, including but not limited to (1) the fees and other costs incurred by the Issuer or the Trustee under the Subordinate Indenture for services of paying agents; (2) all costs incurred in connection with the transfer, registration, exchange or redemption of the Bonds; (3) all fees and other costs incurred for services of such engineers, architects, attorneys, management consultants, accountants and other consultants as are employed by the Issuer or the Trustee to make examinations and reports, provide services and render opinions required under the Borrower Documents or the Subordinate Indenture; and (4) amounts advanced by the Issuer or the Trustee under the Borrower Documents or the Subordinate Indenture and which the Borrower is obligated to repay.

(b) If there are funds or Qualified Investments on deposit in the Debt Service Reserve Fund and the Trustee transfers money from the Debt Service Reserve Fund to the Debt Service Fund pursuant to Section 5.06 of the Indenture, on the twenty-fifth day of each month thereafter, the Borrower shall pay to the Trustee for credit to the Debt Service Reserve Fund an amount equal to at least one-sixth of the amount so transferred (until the balance in the Debt Service Reserve Fund is equal to the Reserve Requirement).

(c) In addition, if any of the payments required under this Section 4.3 are not made by the Borrower, then the Trustee shall require the Sole Member to make such payments under the terms of the Subordinate Guaranty, subject to the limitations therein.

(d) On or before _____ 25, 2026, and continuing on or before the twenty-fifth day thereafter, the Borrower shall pay to the Trustee for deposit into the Repair and Replacement Reserve Fund an amount equal to the greater of (i) one-twelfth of \$300 per unit per year, based on the actual number of units in the Project at the commencement of each Fiscal Year; or (ii) one-twelfth of the amount outlined in the most recent capital budget subject to a maximum fund balance of \$1,000 per unit per year based upon the actual number of units in the Project at the end of each Fiscal Year.

(e) On or before _____ 25, 20____, and continuing on or before the twenty-fifth day thereafter, the Borrower shall pay to the Trustee for deposit in the Taxes and Insurance Escrow Fund the sum of (i) one-twelfth of the real estate taxes (or payment in lieu of taxes) estimated by the Borrower to be due with respect to the Project in the following calendar year; and (ii) one-twelfth of the premiums estimated by the Borrower to be due on insurance maintained by the Borrower with respect to the Project in accordance with the requirements of Section 5.10 hereof and Section 5.12 of the Indenture; provided, however, that in making any such payments the Borrower shall be credited for amounts in the Taxes and Insurance Escrow Fund that are in excess of the aggregate payments required to be made as of any such payment date.

Section 4.4. Issuer's Administrative Fee. The Borrower shall pay in accordance with this Section 4.4 and Section 4.4 of the Senior Loan Agreement, the Issuer's fee in the amount equal to 0.25% of the aggregate principal amount of the Senior Bonds and the Subordinate Bonds (collectively, the "Series 2025 Bonds"), not to exceed \$50,000, which shall be payable by the Borrower on the Closing Date of the Series 2025 Bonds, and any fees and expenses of the Issuer in connection with the issuance of the Series 2025 Bonds. The administrative fee is not pledged to the payment of the Subordinate Bonds and may be

used by the Issuer for any proper purpose. The Borrower understands that an additional administrative fee may be payable in connection with the issuance of Additional Bonds.

Section 4.5. Audit Expenses. The Borrower agrees to pay any reasonable costs incurred by the Issuer as a result of the Issuer's compliance with an audit or any other inquiry, random or otherwise, by the Internal Revenue Service, the Minnesota Department of Revenue, or the Minnesota Office of the State Auditor with respect to the Bonds or the Project.

Section 4.6. Certain of Borrower's Obligations Unconditional. The Borrower shall bear all risk of damage or destruction in whole or in part to the Mortgaged Property or any part thereof, including without limitation any loss, complete or partial, or interruption in the use, occupancy or operation of the Mortgaged Property, or anything which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Mortgaged Property or the compliance by the Borrower with the terms of this Subordinate Loan Agreement. In furtherance of the foregoing, but without limiting any of the other provisions of this Subordinate Loan Agreement, the obligation of the Borrower to make Loan Repayments and Additional Payments shall be absolute and unconditional and the Borrower shall not be entitled to any abatement, diminution, set-off, abrogation, waiver or modification thereof nor to any termination of this Subordinate Loan Agreement by any reason whatsoever except as expressly provided herein, regardless of any right of set-off, recoupment or counterclaim that the Borrower might otherwise have against the Issuer or the Trustee or any other Person and regardless of any contingency, act of nature, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during or after the completion of the Project, including, without limiting the generality of the foregoing, the following:

(a) any damage to or destruction of any part or all of the Mortgaged Property or any other properties owned or operated by the Borrower;

(b) the taking by the Issuer or any public authority or agency in the exercise of the power of eminent domain or otherwise of any part or all of the Mortgaged Property or any other properties owned or operated by the Borrower;

(c) any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of or affecting the Borrower, whether with or without the approval of the Issuer or the Trustee, except as otherwise expressly provided in this Subordinate Loan Agreement;

(d) any failure of the Issuer to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation, arising out of or in connection with this Subordinate Loan Agreement or the Subordinate Indenture, or the failure by the Trustee to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation, arising out of or in connection with the Subordinate Indenture, the Subordinate Mortgage or any Collateral Document;

(e) any change or delay in the time of availability of the Project or any Improvement, Related Facilities or Unrelated Improvement permitted hereunder or delays in the construction of any Improvement, Related Facilities or Unrelated Improvement permitted hereunder;

(f) the failure for any cause or reason to complete or to maintain satisfactory progress in the acquisition, construction, installation and equipping of any Improvement, Related Facilities or Unrelated Improvement permitted hereunder;

(g) foreclosure by the Trustee of the Subordinate Mortgage or the enforcement of any other remedy available hereunder or thereunder or under applicable laws;

- (h) failure of consideration, failure of title or commercial frustration;
- (i) any change in the tax or other laws of the United States or of any state or other governmental authority; or
- (j) the appointment of a receiver of the Borrower or of all or any part of its assets.

The implementation and enforcement of this Section 4.6 is subject to amendment with the consent of Bondholders as provided in Articles IX and X of the Subordinate Indenture.

Section 4.7. Surplus Funds. When all the Bonds and all other obligations incurred or to be incurred by the Borrower under this Subordinate Loan Agreement have been paid, or sufficient funds (including investments in Government Obligations or Defeasance Obligations as provided in Article VI of the Subordinate Indenture) are held in trust for the payment of the Bonds and all such other obligations, any surplus funds remaining to the credit of any Trust Fund shall be paid to the Borrower.

Section 4.8. Borrower's Obligation to Prepay Loan and Direct Redemption of Tax-Exempt Bonds. If the Borrower receives from any source a written notice of a Determination of Taxability with respect to the Tax-Exempt Bonds, the Borrower shall immediately notify the Trustee and Issuer of such fact and within sixty (60) days thereafter pay to the Trustee, for credit to the Debt Service Fund, an amount equal to the Redemption Price of all Outstanding Bonds payable on the Redemption Date upon which all then Outstanding Bonds are to be redeemed in accordance with Section 3.05(D) of the Subordinate Indenture. Such payment shall be used by the Trustee to pay the Redemption Price of all Outstanding Bonds as provided in Section 3.05(D) of the Subordinate Indenture.

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ARTICLE V

THE PROJECT

Section 5.1. Maintenance of the Project. Until all the Bonds have been redeemed or retired and all other obligations incurred or to be incurred by the Borrower under this Subordinate Loan Agreement have been paid, or sufficient funds (including investments in Government Obligations in accordance with Article VI of the Subordinate Indenture) are held in trust for the payment of all such obligations, the Borrower shall, maintain the Project, both inside and outside, in a good state of repair and preservation, ordinary wear and tear, obsolescence and acts of nature excepted, and will make all necessary repairs, renewals, replacements, betterments and improvements thereto so that the business carried on in connection therewith may be properly and advantageously conducted at all times. The Borrower will not use or permit the use of the Project, or any part thereof, for any unlawful purpose or permit any nuisance to exist thereon. The Borrower shall provide all equipment, furnishings, supplies and other personal property required or convenient for the proper operation, repair and maintenance of the Project in a manner consistent with then current standards of operation and administration for facilities similar to the Project.

Section 5.2. Operation of the Project. The Borrower will faithfully and efficiently administer, maintain and operate the Project, open to the general public, free of discrimination based upon race, color, religion, creed, national origin or gender. The Borrower further agrees that:

- (a) it will use, maintain and operate the Project on a revenue-producing basis;
- (b) it will use the Project only in furtherance of the lawful corporate and exempt purposes of the Borrower and the Sole Member;
- (c) it will not use the Project for sectarian instruction nor will it use the Project primarily as a place of religious worship or as a facility used primarily as a part of a program of a school or department of divinity for any religious denomination or the religious training of ministers, priests, rabbis or other similar persons in the field of religion;
- (d) it will not use the Project or suffer or permit the Project to be used by any Person or in any manner which would result in the loss of tax exemption of interest on any Tax-Exempt Bonds otherwise afforded under the Code and, further, it will not permit any of the proceeds of Tax-Exempt Bonds to be used, directly or indirectly, in any manner which would result in the Tax-Exempt Bonds being classified as Arbitrage Bonds or in any other manner which would result in the loss of tax exemption of interest on the Tax-Exempt Bonds otherwise afforded under the Code;
- (e) the Borrower will not, in any substantial way, engage in any business or activities other than (i) that of maintaining and operating the Project or facilities comparable thereto, and related activities incident thereto, or (ii) any other business or activity within the exempt purposes of the Borrower and the Sole Member; and
- (f) it will continue to be duly qualified to do business in the State and, subject to the provisions of Section 7.4 hereof, will maintain its corporate existence.

Section 5.3. Additions, Alterations and Changes to Project. The Borrower shall have the right from time to time at its sole cost and expense to make additions, modifications, alterations, improvements and changes (hereinafter collectively referred to as “Alterations”) in or to the Project as it, in its discretion,

may deem to be desirable for its uses and purposes, subject, however, in all cases to the following conditions:

(a) No Alteration of any kind shall be made which would result in a violation of the provisions of Section 5.2 hereof.

(b) No building or buildings constituting a part of the Project shall be demolished or removed nor shall any material Alteration to the Project be made which would substantially impair the structural strength, operating efficiency or market value thereof, or would significantly impair the revenue-producing capability of the Project or would adversely affect the ability of the Borrower to comply with the terms of this Subordinate Loan Agreement.

(c) All Alterations shall be located wholly within the boundary lines of the Land and shall become a part of the Mortgaged Property subject to the Mortgage.

(d) No change shall be made in the location of any property subject to the Subordinate Mortgage or any Collateral Document which removes such property into a jurisdiction in which such Mortgage or security interest thereby created has not been recorded or filed in the manner required by law to preserve such Mortgage or security interest in such property.

(e) No work in connection with any Alteration shall be undertaken until the Borrower shall have procured and paid for, so far as the same may be required, from time to time, all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction.

(f) All work in connection with any Alteration shall be done promptly and in good professional manner and in compliance with the building and zoning laws of the Issuer or other governmental subdivision wherein the Project is situated, and with all laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof, and shall not violate the provisions of any policy of insurance covering the Project, and the work shall be prosecuted with reasonable dispatch, unavoidable delays excepted.

(g) Workers' compensation insurance shall cover all persons employed in connection with the Alterations and with respect to whom death or bodily injury claims could be asserted against the Borrower or the Mortgaged Property, and general liability insurance (specifically covering this class of risk) in such amounts customarily carried by like organizations engaged in like activities of comparable size and liability exposure and as otherwise required or permitted by applicable law. The general liability insurance provided for in this paragraph may be effected by an appropriate endorsement, if obtainable, upon the insurance referred to in Section 5.10 hereof. All such insurance shall be obtained through financially sound and reputable insurance companies or an Insurance Subsidiary.

Section 5.4. Installation and Removal of Equipment by the Borrower. The Borrower may from time to time in its sole discretion install or place within the Project or elsewhere on the Land items of personalty. All such items so installed by the Borrower shall not, unless acquired from proceeds of Additional Bonds or Long-Term Indebtedness subject to the lien of the Subordinate Mortgage or are substitutions or replacements of Pledged Equipment, become part of the Project and be included under the terms of this Subordinate Loan Agreement and subject to the lien of the Mortgage, but may be subject to a lease or other purchase money security interest, the lien of which is superior to the lien of the Mortgage. So long as it is not in default hereunder, the Borrower may, without the consent of the Issuer or the Trustee, remove, alter or modify any item of personalty, but any damage resulting to the Project therefrom shall be

repaired and the Project restored to its previous condition at the sole expense of the party effecting such removal or at the sole expense of the Borrower, provided, however, that Pledged Equipment may only be removed from any facility comprising the Project as provided in the Mortgage.

Section 5.5. No Credit for Additions or Replacements. The Borrower shall not be entitled to any credit upon Loan Repayments, Additional Payments, or other obligations under this Subordinate Loan Agreement on account of the addition or replacement of any portion of the Project.

Section 5.6. Inspection of Project. The Trustee and its duly authorized agent shall have the right at all reasonable times upon reasonable notice to examine and inspect the Project and for that purpose shall have such rights of access to the Land and Project Buildings as may be reasonably necessary to assure that the Project is being properly maintained in accordance herewith. The Trustee is under no duty or obligation to make any such inspection.

Section 5.7. Taxes, Charges and Assessments. Subject to the provisions of Section 5.9 hereof relating to permitted contests, the Borrower agrees to pay or cause to be paid:

(a) all taxes and charges on account of the use, occupancy or operation of the Mortgaged Property, including but not limited to all sales, use, occupation, personal property, business and occupation taxes, permit and inspection fees, occupation and license fees and water, gas, electric light, power or other utility charges assessed or charged on or against the Mortgaged Property or on account of the Borrower's use or occupancy thereof or the activities conducted thereon or therein; and

(b) all other lawful governmental taxes, fees, charges, assessments and impositions of every kind or nature, ordinary or extraordinary, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, and all applicable interest and penalties thereon, if any, which shall be or become due and payable and which shall be lawfully levied, assessed or imposed.

If under applicable law any such tax, fee, charge, assessment, or imposition may at the option of the taxpayer be paid in installments, the Borrower may exercise such option. Nothing contained herein shall be deemed to constitute an admission by the Borrower to any third party that the Borrower is liable for, or its properties are subject to, any tax, charge, fee, rate, imposition or assessment.

Section 5.8. Liens and Encumbrances. The Borrower represents and warrants that, as of the Closing Date, no lien, charge or encumbrance, other than Permitted Encumbrances, exists upon the Mortgaged Property, and no Loan Repayments or no Additional Payments exist prior to this Subordinate Loan Agreement or the Mortgage. Except as otherwise permitted by the provisions of this Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, the Borrower will not create or suffer to be created any lien, encumbrance or charge upon the Mortgaged Property, other than Permitted Encumbrances, and, subject to the provisions of Section 5.9 hereof relating to permitted contests, it will satisfy or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall occur, all lawful claims and demands for labor, materials, supplies or other items which, if not satisfied, might by law become a lien upon the Mortgaged Property; provided that liens for labor or materials arising by operation of statutory law shall not be within the purview of this Section 5.8 if, when such liens shall be perfected, the Borrower shall cause them to be promptly discharged. If any such lien shall be filed or asserted against the Mortgaged Property, or any installment of Loan Repayments or Additional Payments, by reason of work, labor, services or materials supplied or claimed to have been supplied, the Borrower shall, subject to the provisions of Section 5.9 hereof relating to permitted contests, within thirty (30) days after it receives notice of the filing thereof or the assertion thereof, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Project,

or any installment of Loan Repayments or Additional Payments, by contest, payment, deposit, bond, order of court or otherwise.

Section 5.9. Permitted Contests. The Borrower shall not be required to pay any tax, fee, charge, assessment or imposition referred to in Section 5.7 hereof, nor to remove any lien, charge or encumbrance required to be removed under Section 5.8 hereof, so long as the Borrower shall contest, in good faith and at its own cost and expense, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, fee, charge, assessment, imposition, lien, charge or encumbrance so contested, and the sale, forfeiture, or loss of the Mortgaged Property or any part thereof, or of the Loan Repayments or Additional Payments or any portion thereof, to satisfy the same; provided that no such contest shall subject the Issuer or the Trustee to the risk of any liability. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of the Borrower to settle any such contest), and in any event the Borrower will save the Issuer and the Trustee harmless against all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) and will, promptly after the final determination of such contest or settlement thereof, pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interests, costs and expenses thereon or in connection therewith. The Borrower shall give the Issuer and Trustee prompt written notice of any such contest and provide the Issuer and the Trustee an Opinion of Counsel that by nonpayment of any of the foregoing items the lien of the Subordinate Mortgage as to any substantial part of the Mortgaged Property will not be materially endangered; the Mortgaged Property, or any substantial part thereof, will not be subject to imminent loss or forfeiture and the obligations of the Borrower under this Subordinate Loan Agreement will not be materially impaired. Notwithstanding the foregoing, nothing herein shall be construed to prevent the Issuer or any other unit of government from assessing or taxing the Mortgaged Property or any other property of the Borrower or from contesting any claim of the Borrower as to the amount or invalidity of any such assessment or tax.

Section 5.10. Insurance. The Borrower shall at all times keep and maintain the Project insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with the operation of facilities of a type and size comparable to the Project. Subject to the provisions of Section 5.12 hereof, the Borrower shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for, at least the following insurance with respect to the Project and the Borrower:

(a) **[insurance coverage for buildings and contents including steam boilers, fired-pressure vessels and certain other machinery for fire, lightning, windstorm and hail, explosion, aircraft and vehicles, sprinkler leakage, elevator, and all other risks of direct physical loss, at all times in an amount equal to the full replacement value of the Project. ("Full replacement value" shall include the actual replacement cost of the Project (exclusive of foundations, footings, architectural, engineering, legal, and administrative fees) without deduction for depreciation.) The policies required by this paragraph (a) shall either be subject to no co-insurance or contain an agreed amount clause and may contain a deductible provision not exceeding \$100,000;**

(b) **general liability (other than as set forth in paragraph (c) below) in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate; provided that the requirements of this paragraph (b) with respect to the amount of insurance may be satisfied by an excess coverage policy;**

(c) **comprehensive automobile liability insurance and, to the extent relevant to the operations of the Borrower, professional liability insurance;**

(d) **workers' compensation insurance or self-insurance as required by the laws of the State;**

(e) **commencing when the Project is placed in service and thereafter, business or rental interruption insurance covering actual losses in gross operating earnings of the Borrower resulting directly from necessary interruption of business caused by damage to or destruction from the perils listed above in subsection (a) hereof to real or personal property constituting part of the Project, less charges and expenses which do not necessarily continue during the interruption of business, with limits equal to at least twelve (12) months of actual losses in gross operating earnings; and**

(f) **while any improvement is in the course of being constructed or rebuilt on the Land, Borrower shall provide the aforesaid hazard insurance in builder's risk completed value form, including coverage available on the so-called "all-risk" non-reporting form of policy for an amount equal to one hundred percent (100%) of the insurable replacement value of such building or other improvement.]**

Section 5.11. Insurers and Policies. Each insurance policy required by Section 5.10 hereof shall (a) be issued or written by such insurer (or insurers) as is financially responsible, or by an insurance fund established by the United States or State or an agency or instrumentality thereof or an Insurance Subsidiary; (b) be in such form and with such provisions (including, without limitation and where applicable, loss payable clauses payable to the Trustee, waiver of subrogation clauses, and provisions relieving the insurer of liability to the extent of minor claims) as are generally considered standard provisions for the type of insurance involved; and (c) prohibit cancellation or substantial modification by the insurer without prior written notice to the Borrower. Without limiting the generality of the foregoing, all insurance policies carried pursuant to Section 5.10(a) and (b) hereof shall name the Trustee and the Borrower as parties insured thereunder as the respective interest of each of such parties may appear, and loss thereunder shall be made payable and shall be applied as provided in this Article V or in Section 8.2 hereof, as the case may be. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance nor shall the Trustee be responsible for confirming that any such policies conform to the requirements set forth herein.

Section 5.12. Insurance Consultant. The Borrower covenants to review each year the insurance carried by the Borrower with respect to the Borrower and the Project and, to the extent feasible, will carry insurance insuring against the risks and hazards specified in Section 5.10 hereof to the same extent that other corporations comparable to the Borrower and owning or operating facilities of the size and type comparable to the Project carry such insurance. The Borrower shall annually certify to the Trustee on each **[July 1]** that the insurance required under Section 5.10 hereof is in full force and effect. At least once every five (5) years from and after the date hereof, the Borrower shall retain an Insurance Consultant for the purpose of reviewing the insurance coverage of, and the insurance required for, the Borrower and the Project and making recommendations respecting the types, amounts and provisions of insurance that should be carried with respect to the Borrower and the Project and their operation, maintenance and administration. A signed copy of the report of the Insurance Consultant shall be filed with the Trustee. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance. The insurance requirements specified in Section 5.10 hereof and this Section 5.12 shall be deemed modified or superseded as necessary to conform with the recommendations contained in said report. The Trustee's sole obligation with respect to said reports is to hold them as a repository and to provide copies to Bondholders who make a written request to receive them.

Section 5.13. Borrower to Repair, Replace, Rebuild or Restore. If there are any Outstanding Bonds when all or any part of the Project is taken by eminent domain, or destroyed or damaged, unless the

Borrower exercises its option to direct the Issuer to call Outstanding Bonds for redemption pursuant to Section 8.2 hereof:

(a) The Borrower shall proceed promptly, subject to the provisions of subsection (b) below, to replace, repair, rebuild and restore the Project to substantially the same condition as existed before the taking or event causing the damage or destruction, with such changes, Alterations and modifications (including substitution or addition of other property) as may be desired by the Borrower and which will be suitable for continued operation of the Project for the business purposes of the Borrower, and the Borrower will pay all costs thereof and is entitled to retain all Net Proceeds of the condemnation award or insurance claim.

(b) If the condemnation award or insurance claim exceeds \$250,000, all Net Proceeds of the condemnation award or insurance claim shall be applied by the Borrower to the payment of the costs of repair, replacement, rebuilding or restoration of the Project. If the Net Proceeds are not sufficient to pay such costs in full, the Borrower will nonetheless complete the same and will pay that portion of the cost thereof in excess of the amount of the Net Proceeds.

(c) The Borrower shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the Issuer or any abatement or diminution of the Loan Repayments or the other sums payable by the Borrower hereunder.

(d) All buildings, improvements and equipment acquired in the repair, rebuilding, replacement or restoration of the Project, together with any interests in land acquired by the Borrower as necessary for such restoration, shall be deemed a part of the Project and available for use and occupancy by the Borrower without the payment of any additional amounts other than those provided herein, to the same extent as if they had been specifically described in this Subordinate Loan Agreement; provided that no land, interest in land, buildings, improvements or equipment shall be acquired subject to any lien or encumbrance, other than Permitted Encumbrances.

Section 5.14. Cooperation of the Issuer and the Trustee. The Issuer and the Trustee will cooperate fully with the Borrower in filing any proof of loss with respect to any insurance policy covering casualties referred to in Section 5.13 hereof, in the handling and conduct of any litigation arising with respect thereto, and in the handling and conduct of any prospective or pending condemnation proceedings affecting the Project or any part thereof, and will, to the extent they may lawfully do so, permit the Borrower to litigate in any such litigation or proceeding in the name and on behalf of the Issuer and Trustee. Any costs incurred pursuant to this Section shall be paid by the Borrower. So long as the Borrower is not in default hereunder, neither the Issuer nor Trustee will voluntarily settle or consent to the settlement of any proceeding arising out of any insurance claim, or any prospective or pending condemnation proceeding, with respect to the Project or any part thereof without the written consent of the Borrower; provided that the foregoing provisions of this Section 5.14 shall not be construed as waiving or otherwise impairing the authority of the Issuer to condemn all or a portion of the Project in accordance with law.

Section 5.15. Business Interruption Insurance Proceeds. All proceeds of business interruption insurance required to be maintained pursuant to Section 5.10(e) hereof shall be deposited in the Debt Service Fund, but only to the extent necessary to satisfy the obligations of the Borrower under Section 4.2 hereof.

ARTICLE VI

INDEBTEDNESS

Section 6.1. Indebtedness Generally. The Borrower agrees that, until all of its obligations under this Subordinate Loan Agreement have been fully paid and discharged, the Borrower shall not, directly or indirectly, incur any Indebtedness except as provided in this Article VI.

Section 6.2. Short-Term Indebtedness; Other Indebtedness and Interim Indebtedness.

(a) [The Borrower may incur such Short-Term Indebtedness as in the Borrower's judgment may be deemed expedient, provided that Short-Term Indebtedness when incurred shall not cause the total Short-Term Indebtedness to exceed in the aggregate then outstanding five percent (5%) of the Gross Revenues of the Borrower for the preceding Audited Fiscal Year, except as provided in the next sentence. Any Short-Term Indebtedness in excess of such amount shall be treated as Long-Term Indebtedness for all purposes of this Subordinate Loan Agreement. Short-Term Indebtedness may be secured only by a pledge and assignment of all or any part of the Borrower's accounts receivable or personal property not constituting part of the Mortgaged Property.]

(b) [The Borrower may incur such Other Indebtedness as it deems expedient, provided that before incurring any Other Indebtedness the Borrower shall furnish the Trustee a Borrower Certificate signed by the chief financial officer or chief manager of the Borrower stating that the Net Revenues Available for Debt Service for the last Audited Fiscal Year were not less than the amount described in Section 6.3(b) hereof and that the estimated Net Revenues Available for Debt Service for each of the three consecutive Fiscal Years beginning after the Fiscal Year in which such Other Indebtedness is to be incurred (after giving effect to such Other Indebtedness) will be not less than the amount described in Section 6.3(b) hereof.]

(c) [The Borrower may incur Interim Indebtedness to provide temporary financing of Improvements and Unrelated Improvements for which the Issuer has previously agreed to provide permanent financing by the issuance of Additional Bonds therefor or for which other lenders or issuers have previously agreed to provide permanent financing, but only after the right of the Borrower to enter into the permanent financing has been established as described in Section 6.3 below.]

Section 6.3. Long-Term Indebtedness. [Except as set forth in Section 6.5 hereof, the Borrower may only incur Long-Term Indebtedness in the form of Additional Bonds pursuant to the requirements of this Section 6.3 and Section 4.01 of the Subordinate Indenture. Such Long-Term Indebtedness in the form of Additional Bonds may be incurred for the purpose of (i) refunding Outstanding Bonds, (ii) refinancing outstanding Long-Term Indebtedness, or (iii) financing or refinancing the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements. The Long-Term Indebtedness may include amounts necessary to pay the costs of the Borrower in incurring such Long-Term Indebtedness, to fund reserves for the payment of such Long-Term Indebtedness and to fund interest payable on such Long-Term Indebtedness for a period of time not to exceed six (6) months beyond the completion of construction of any Related Facilities, Improvements or Unrelated Improvements financed thereby.]

(a) Before incurring or otherwise becoming liable in respect of any Long-Term Indebtedness, the Borrower shall furnish the Trustee (i) a Borrower Certificate stating, among other things, that the proposed Long-Term Indebtedness, together with any other funds available to and committed or reserved

by the Borrower for use in connection with such financing, refinancing or refunding, which other funds shall be identified as to amount and source, is not less than the amount required to complete payment of all costs to be incurred by the Borrower in conjunction with the financed activities as described in the preceding paragraph, and to pay all fees, expenses and financing costs, including required reserves and funded interest, in connection therewith; and (ii) an Opinion of Counsel for the Borrower to the effect that all conditions precedent specified in this Subordinate Loan Agreement for incurring such Long-Term Indebtedness have been satisfied.

(b) Except as provided in subsection (c) below, the Borrower shall not incur any Long-Term Indebtedness to refinance outstanding Long-Term Indebtedness or to finance or refinance the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements unless it shall furnish the Trustee, in addition to the items described in subsection (a) above, either (a) a written opinion, report, or procedures of an Independent Accountant stating that Net Revenues Available for Debt Service of the Company for each of the last two Audited Fiscal Years were not less than 130% of the maximum Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness as if it were outstanding at the beginning of such period but excluding requirements for Indebtedness to be refinanced thereby and any subordinate Indebtedness) for any Fiscal Year beginning after the Fiscal Year in which such Long-Term Indebtedness is to be incurred but before the final maturity of all outstanding Bonds, or (b) a forecast accompanied by an Independent Accountant's examination report stating that the estimated Net Revenues Available for Debt Service of the Company for each of the two consecutive Fiscal Years beginning the first Fiscal Year following the Fiscal Year of projected stabilized occupancy for any Improvements (or, if no Improvements, or other facilities are to be financed thereby, beginning the first Fiscal Year after the Fiscal Year in which the proposed Long-Term Indebtedness is to be incurred), will not be less than 135% of the maximum Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness, but excluding such requirements for Indebtedness to be refinanced thereby and any subordinate Indebtedness) for each Fiscal Year beginning the second Fiscal Year after the Fiscal Year in which any Improvements, or other facilities being financed thereby are to be placed in service (or if no Improvements, or other facilities are to be financed thereby, beginning the first Fiscal Year after the Fiscal Year in which the proposed Long-Term Indebtedness is to be incurred, but before final maturity of the Outstanding Bonds).

(c) [Notwithstanding the provisions of subsection (b) above, the Borrower may incur Long-Term Indebtedness (i) to finance the acquisition and/or construction of Related Facilities, Improvements or Unrelated Improvements if such Related Facilities, Improvements or Unrelated Improvements are necessary in order to comply with any order of the United States or State, or any agency thereof, or to comply with the requirements of any nationally recognized health care accrediting agency; (ii) if and to the extent necessary to provide additional funds for completing payment of the cost of any Related Facilities, Improvements or Unrelated Improvements for which any Long-Term Indebtedness shall have been incurred at one time or from time to time under this Subordinate Loan Agreement or for which Additional Bonds shall have been issued at one time or from time to time under the Subordinate Indenture; (iii) for the current refunding of the principal amount of any outstanding Long-Term Indebtedness, provided the average annual Principal and Interest Requirements on Long-Term Indebtedness (including such requirements for the proposed Long-Term Indebtedness but excluding such requirements for the Long-Term Indebtedness to be refinanced thereby) for the proposed Long-Term Indebtedness will be no greater than the average annual Principal and Interest Requirements on Long-Term Indebtedness would have been on the

refinanced Long-Term Indebtedness; or (iv) for refinancing the principal amount of Interim Indebtedness previously incurred.;

(d) [Any Long-Term Indebtedness shall be secured on a parity basis with the interest granted to the Trustee pursuant to the Subordinate Mortgage or any Collateral Document, except that the Debt Service Fund and Debt Service Reserve Fund shall be solely for the security of the Bonds. In the event that the Borrower shall propose so to incur Long-Term Indebtedness through the issuance of Additional Bonds, the Issuer, the Trustee and the Borrower shall take such actions (including amendment or supplement of this Subordinate Loan Agreement, the Subordinate Mortgage and the Subordinate Indenture) and execute, deliver, file and record such instruments of security as their respective counsel agree to be necessary or appropriate to grant to and/or otherwise secure the Long-Term Indebtedness on a parity basis with the Series 2025B.]

(e) [Any Long-Term Indebtedness shall be secured by an unlimited and unconditional guaranty of debt service payments by Sole Member.]

(f) Without regard to any provisions of the Continuing Disclosure Agreement, the Borrower shall disclose within 10 Business Days to EMMA any issuance of Long-Term Indebtedness.

Section 6.4. Calculation of Debt Service. The calculation of Principal and Interest Requirements on Long-Term Indebtedness whether pursuant to this Subordinate Loan Agreement or the Subordinate Indenture, shall be made in a manner consistent with that set forth in Section 6.3 hereof and the following:

(a) **Balloon Indebtedness shall be assumed to be amortized in substantially equal annual amounts to be paid for principal and interest over an assumed amortization period of years equal to the number of years from the Closing Date of such Balloon Indebtedness to its stated maturity and at the stated interest rate applicable to such Balloon Indebtedness.**

(b) In determining the amount of debt service payable on Variable Rate Indebtedness for any future period, interest on such indebtedness for any period of calculation (the “Determination Period”) shall be computed by assuming that the rate of interest applicable to the Determination Period is equal to the average annual rate of interest on similar securities (calculated in the manner in which the rate of interest for the Determination Period is to be calculated) which was in effect for the twenty-four (24) month period prior to a date selected by the Borrower, which selected date is within forty-five (45) days immediately preceding the beginning of the Determination Period, as reported by a banking or investment banking institution knowledgeable in matters of variable rate financing, plus two percent (2%) per annum, or, if it is not possible to calculate such average annual rate of interest, by assuming that the rate of interest applicable to the Determination Period is equal to the rate of interest then in effect on such Variable Rate Indebtedness, plus two percent (2%) per annum. In addition, debt service shall include any continuing credit enhancement, liquidity and/or remarketing fees for the relevant period.

(c) If any Long-Term Indebtedness is by its terms payable in one (1) or more principal installments which in any Fiscal Year are greater than in any prior Fiscal Year, the Borrower and the Trustee may enter into a written agreement providing for the deposit, by the Borrower with the Trustee, into a special redemption fund, which shall not be a part of the Trust Estate, on one (1) or more specified dates prior to the date or dates on which such Long-Term Indebtedness shall be due and payable, of specified amounts, and providing for payment of such Long-Term Indebtedness or the installments thereof from such special redemption fund and for the procedures to be followed with respect thereto, and in such event and upon the making of such agreement and upon providing

the Trustee an Opinion of Counsel that such agreement is a valid, binding and enforceable agreement of the Borrower the amounts required by such agreement to be deposited with the Trustee may, at the option of the Borrower, be treated as the annual principal requirements for such Long-Term Indebtedness for the purpose of computing Principal and Interest Requirements on Long-Term Indebtedness.

ARTICLE VII

SPECIAL COVENANTS

Section 7.1. Restrictions. The Issuer and the Borrower acknowledge and agree that the Loan Repayments and all other rights, title and interest of the Issuer in this Subordinate Loan Agreement (other than the Issuer's Unassigned Rights) are being assigned and a security interest therein granted to the Trustee as security for the Bonds issued under the Subordinate Indenture and that the Issuer has entered into certain covenants with the Trustee in the Subordinate Indenture which may affect the Project and this Subordinate Loan Agreement in the event of default hereunder.

Section 7.2. Nature of Issuer's Covenants; Release.

(a) The Borrower acknowledges and agrees that any obligation of the Issuer created by or arising out of this Subordinate Loan Agreement shall be payable solely out of the proceeds derived from this Subordinate Loan Agreement or any Collateral Document, the sale of the Bonds, the Subordinate Guaranty, any insurance and condemnation awards received pursuant hereto or sale or other disposition of the property secured by the Subordinate Mortgage upon a default by the Borrower. The foregoing limitation shall not, however, preclude the Borrower from seeking injunctive relief in any court to compel the Issuer to perform any such obligation.

(b) The Borrower acknowledges and agrees that the Issuer shall not be liable to the Borrower, and releases and discharges the Issuer from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Trustee or any other party with respect to the Bonds, the Subordinate Indenture, this Subordinate Loan Agreement, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Trustee or any third party of any of its rights or remedies pursuant to any of such documents.

Section 7.3. Issuer to Reasonably Cooperate. Whenever any provision of this Subordinate Loan Agreement gives the Borrower any rights, the full realization of which is or may be subject to further action of the Trustee under the Subordinate Indenture, the Issuer will cooperate with the reasonable requests of the Borrower and will, at the expense of the Borrower, supply all necessary certificates and other things reasonably requested by the Borrower to the Trustee to effect the intent of this Subordinate Loan Agreement.

Section 7.4. Continuing Existence and Qualification. The Borrower will maintain its existence as a nonprofit limited liability company under the laws of the State whose Sole Member is an organization described in Section 501(c)(3) of the Code and exempt from federal income taxation under Section 501(a) of the Code (or any successor sections of a subsequent federal income tax statute or code). The Borrower will remain duly qualified to do business in the State and will not dispose of all or substantially all of its assets by sale, lease (unless permitted by the provisions of Section 7.4 hereof) or otherwise or consolidate with or merge into another entity or permit any other entity to consolidate with or merge into it unless:

(a) the surviving, resulting or transferee entity, as the case may be, if other than the Borrower, (i) is organized under the laws of the United States or one of the states thereof, (ii) is duly qualified to do business in the State, (iii) is a Tax-Exempt Organization, (iv) is or has as one of its members Sole Member or an Affiliate or any combination of them, and (v) has total unrestricted net assets at least equal to that of the Borrower as of the date of such consolidation, merger or transfer;

(b) at least thirty (30) days before any merger, consolidation or transfer of assets becomes effective, the Borrower shall give the Issuer and the Trustee written notice of the proposed transaction;

(c) prior to any merger, consolidation or transfer of assets, an opinion of Bond Counsel is delivered to the Trustee stating that such merger, consolidation or transfer of assets will not cause interest on the Outstanding Tax-Exempt Bonds to become includable in the gross income for federal income tax purposes of recipients thereof subject to federal income taxation;

(d) prior to any merger, consolidation or transfer of assets, the surviving, resulting or transferee corporation, as the case may be, if other than the Borrower, shall deliver to the Trustee an instrument assuming all of the obligations of the Borrower under the Borrower Documents and any Collateral Document and an Opinion of Counsel for such successor corporation stating that the instrument is (subject to customary qualifications) a valid, binding and enforceable obligation of such successor and that all of the conditions of this Section 7.4 have been satisfied; and

(e) the surviving, resulting or transferee corporation, as the case may be, is able to incur at least one dollar of Long-Term Indebtedness without violating the provisions of Section 6.3 hereof;

and upon meeting the conditions set forth in the paragraphs above, the Borrower may merge, consolidate or dispose of all or substantially all of its assets and thereafter dissolve.

Section 7.5. Bankruptcy. The Borrower will not go into voluntary bankruptcy or insolvency, or apply for or consent to the appointment of a receiver or trustee of itself or of its property or make any general assignment for the benefit of its creditors, or allow any order adjudicating it to be bankrupt or insolvent or appointing a receiver or trustee of its property.

Section 7.6. Compliance and Notice of Default. The Borrower will not permit any default to occur under this Subordinate Loan Agreement, but will faithfully observe and perform all of the conditions, covenants and agreements hereof. The Borrower will give to the Trustee and the Issuer prompt notice of any condition or event that constitutes an Event of Default or, with the passage of time and/or the giving of notice, would constitute an Event of Default under Section 9.1(b) through (g) hereof.

Section 7.7. Indemnity.

(a) The Borrower will indemnify, defend, and hold harmless the Issuer and Trustee and their respective employees, commissioners, officers and agents (the "Indemnified Parties"), from and against any and all liability, damages and claims by or on behalf of any person, firm, corporation or other legal entity:

(i) arising from the conduct, operation or management of, or from, any work or thing done on or to the Project during the term of this Subordinate Loan Agreement, including, without limitation, (1) any condition of the Project; (2) any breach or default on the part of the Borrower in the performance of any of its obligations under this Subordinate Loan Agreement; (3) any act of negligence of the Borrower or of any of its agents, contractors, servants, employees or licensees; or (4) any act of negligence of any assignee or lessee of the Borrower, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Borrower; and

(ii) to which the Indemnified Parties may become subject under any law in connection with the issuance and sale of the Bonds, the carrying out of the transactions contemplated by this Subordinate Loan Agreement or the Subordinate Indenture, and the conduct of any activity in

connection with the Project, including claims for which the Indemnified Parties may be or may be claimed to be liable, but excluding claims for which the Indemnified Parties are found to be liable and to reimburse the Indemnified Parties for any out-of-pocket legal and other expenses (including reasonable counsel fees) incurred by the Indemnified Parties in connection with investigating any such losses, claims, damages or liabilities, or in connection with defending any actions relating thereto, but excluding reimbursement of fees and expenses incurred with respect to claims for which the Indemnified Parties are found to be liable; and

(iii) in connection with any action or proceeding brought with respect to any such claim arising as aforesaid, and upon notices from the Issuer or Trustee, the Borrower shall defend them or either of them in any such action or proceeding.

(b) The Indemnified Parties agree, at the request and expense of the Borrower, to cooperate in the making of any investigation in defense of any such claim and promptly to assert any or all of the rights and privileges and defenses identified in writing by the Borrower which may be available to the Indemnified Parties.

(c) Promptly upon written notice received from the Borrower from any Indemnified Party or parties of any claim or the commencement of any action or proceeding specified in the preceding paragraphs, the Borrower will at the request of such Indemnified Party or parties, assume the investigation and defense of such action or proceeding including the employment of counsel satisfactory to such Indemnified Parties and the payment of the fees and disbursements of such counsel. In the event that any Indemnified Party or parties shall determine, in the exercise of their reasonable judgment, that there exists conflict of interest by reason of having a common counsel with the Borrower or with any other Indemnified Party, or there are defenses available to such Indemnified Party which are adverse with those available to the Borrower or with any other Indemnified Party or which such Indemnified Party believes in good faith cannot be effectively asserted by common counsel, or if the Borrower elects not to defend the action with respect to any or all Indemnified Parties, then each such Indemnified Party may employ separate counsel satisfactory to the Borrower to represent or defend it in any such action or proceeding in which it may become involved or is named as defendant and the Borrower will pay as incurred the reasonable fees and disbursements of such counsel. Each Indemnified Party always has the right to employ separate legal counsel but, subject to the preceding sentence, the fees and expenses of its separate legal counsel must be paid by the Indemnified Party unless the Borrower and Indemnified Party have mutually agreed to the employment of the Indemnified Party's counsel. The Borrower is not liable for any settlement of a suit, claim, demand, action or proceeding effected without its written consent and the Borrower agrees that it will not settle any claim or action without the consent of the applicable Indemnified Party. The Borrower also agrees to notify all Indemnified Parties promptly of the commencement of any action against the Borrower or any of its officers, directors, partners, employees or agents, as the case may be, of any claim or the commencement of any action or proceeding arising from any act or omission of the Borrower or any of its agents, servants or employees in connection with this Subordinate Loan Agreement, the Subordinate Indenture or the Project.

(d) If the Indemnified Parties incur any expense or suffer any losses, claims or damages or incur any liabilities in connection with the transaction contemplated by this Subordinate Loan Agreement, the Borrower will indemnify, defend, and hold harmless the Indemnified Parties from the same and will reimburse the Indemnified Parties for any reasonable legal or other expenses incurred by the Indemnified Parties in relation thereto. The Borrower shall also reimburse the Indemnified Parties for all other costs and expenses, including without limitation, attorneys' fees paid or incurred by the Indemnified Parties in connection with: (i) the discussion, negotiation, preparation, approval, execution and delivery of this Subordinate Loan Agreement, and the documents and instruments related hereto; (ii) any amendments or modifications hereto or the Subordinate Indenture and any document, instrument or agreement related

thereto and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modification; and (iii) the enforcement by the Indemnified Parties during the term of this Subordinate Loan Agreement or thereafter of any of the rights or remedies of the Issuer under this Subordinate Loan Agreement or under the Subordinate Indenture or any document, instrument or agreement related thereto, including, without limitation, costs and expenses of collection in the event of default by the Borrower, whether or not suit is filed with respect thereto.

The provisions of this Section 7.7 shall survive the retirement and payment of the Bonds and termination of this Subordinate Loan Agreement and the Subordinate Indenture.

Section 7.8. Federal Grants. The Borrower covenants that, so long as any Bonds are Outstanding, if at any time or times the Borrower obtains federal grants in aid, it will at all times comply with the terms of such grants and the laws and regulations under which they are made. The Borrower covenants that it will not apply federal grants in such a manner as to cause the Bonds to become “federally guaranteed” as defined in Section 7.11(e).

Section 7.9. Rates and Charges; Retention of Management Consultant.

(a) **[The Borrower will fix, charge and collect, or cause to be fixed, charged and collected, subject to applicable requirements or restrictions imposed by law, such rates, fees and charges for the use of the Project and for the services furnished or to be furnished by the Borrower at the Project, such that the Borrower’s Net Revenues Available for Debt Service (including Management Fees paid to Sole Member in Project Operating Expenses) in each Fiscal Year, commencing with the Fiscal Year ending September 30, 20[28], will be at least one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) during such Fiscal Year. If this rate covenant is not met for the Fiscal Year immediately prior to any proposed asset transfer, the Borrower may not transfer any funds or assets for less than fair market value. The foregoing is subject to the qualification that if applicable state or federal laws or regulations, or the rules and regulations of agencies having jurisdiction, shall not permit the Borrower to produce such level of Net Revenues Available for Debt Service, then the Borrower shall, in conformity with the then prevailing laws, rules or regulations, maintain rents, rates, fees and charges to equal the maximum permissible level. Although the payment of Management Fees is subordinated to the payment of debt service on the Series 2025A Bonds, the Series 2025A-T Bonds, and the Series 2025B Bonds, Management Fees paid to Sole Member shall be included in the calculation of Project Operating Expenses when calculating the ratio of the Borrower’s Net Revenues Available for Debt Service to Principal and Interest Requirements on Long-Term Indebtedness.]**

(b) Commencing with the Fiscal Year ending September 30, 2028, and based on audited financial statements, the Borrower covenants and agrees to maintain the following days’ Cash on Hand requirements (the “Liquidity Covenant”):

(1) for the Fiscal Year ending September 30, 2028, at least forty-five (45) days’ Cash on Hand; and;

(2) for the Fiscal Year ending September 30, 2029, and each Fiscal Year thereafter, at least sixty (60) days’ Cash on Hand.

(c) In calculating the Liquidity Covenant in Section 7.9(a), the Borrower shall include Management Fees paid to Sole Member in the calculation of Project Operating Expenses.

(d) If the Net Revenues Available for Debt Service (including Management Fees paid in the calculation of Project Operating Expenses) for any Fiscal Year ending on or after September 30, 20__, are less than one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) during such Fiscal Year **for the Borrower shall fail to maintain Cash on Hand as required in subsection (b) above for such Fiscal Year**], then the Borrower will promptly employ an Management Consultant to review and analyze the reports required by Section 7.10 hereof to be made by the Borrower, inspect the Project, its operation and administration and submit to the Borrower and Trustee written reports, and make such recommendations as to the operation and administration of the Project as such Management Consultant deems appropriate, including any recommendation as to a revision of the rents, rates, fees and charges of the Project or the methods of operation thereof. The Borrower agrees to consider any recommendations by the Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations. The Trustee has no duty to review any such recommendations and shall have no responsibility for the sufficiency, adequacy, or implementation of such recommendations. The Trustee has no duty or obligation to monitor the Borrower's compliance with any recommendations of the Management Consultant. If requested, the Borrower shall provide the Trustee with a written certification that the Borrower has, to the fullest extent practicable, adopted and is carrying out the recommendations of the Management Consultant and the Trustee shall be fully protected in relying on such written certification..

(e) So long as the Borrower is otherwise in full compliance with its obligations under this Loan Agreement, including following, to the fullest extent practicable, the recommendations of the Management Consultant, it shall not constitute an Event of Default that the Net Revenues Available for Debt Service of the Borrower (including Management Fees paid in the calculation of Project Operating Expenses) for any Fiscal Year ending on or after September 30, 20__, are less than one hundred twenty percent (120%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) for such Fiscal Year or Cash on Hand is less the amount required under subsection (b) above. If requested, the Borrower shall provide the Trustee with a written certification that the Borrower is, to the fullest extent practicable, in compliance with the recommendations of the Management Consultant and the Trustee shall be fully protected in relying on such written certification.

(f) Notwithstanding the immediately preceding subsection, if the Borrower has retained an Management Consultant as provided above, but at the end of the Audited Fiscal Year in which the recommendations of the Management Consultant have been implemented or any subsequent Audited Fiscal Year Net Revenues Available for Debt Service of the Borrower (including Management Fees paid in the calculation of Project Operating Expenses) as of the end of such Audited Fiscal Year are less than one hundred percent (100%) of the Principal and Interest Requirements on Long-Term Indebtedness (excluding debt service on Subordinate Indebtedness) for such Fiscal Year **for Cash on Hand is less than _____ days**] (as evidenced by the Borrower's audited financial statements for such Fiscal Year), then the Majority of Bondholders may either (1) direct the Trustee to declare an Event of Default; or (2) direct the Trustee to exercise one or more of the remedies permitted under this Loan Agreement and the Indenture.

Section 7.10. Inspections; Reports, Financial Statements.

(a) The Trustee may, and upon the direction of the Majority of Bondholders shall, through its officers, employees, consultants, attorneys and other authorized representatives, upon reasonable notice, have free and unobstructed access at all reasonable times to the Mortgaged Property and records of the Borrower with respect thereto for purposes of inspection. The Borrower will at any and all reasonable times, upon the written request of the Trustee or the Majority of Bondholders and with reasonable notice to the Borrower, permit the Trustee or such Holders, by its or their officers, employees, consultants, attorneys and other authorized representatives, to inspect the books of account, records, reports and other papers of

the Borrower, other than records which are confidential patient records under applicable State or federal law, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection, and the Borrower will furnish to the Trustee any and all such other information as the Trustee may reasonably request with respect to the performance by the Borrower of its covenants in this Subordinate Loan Agreement.

(b) The Borrower covenants that it will keep proper books of record and account in which full, true and correct entries shall be made of all dealings or transactions of or in relation to the business and affairs of the Borrower, in accordance with GAAP, and will furnish the following to the Original Purchaser, and, upon request to the Trustee (provided that item (ii) below shall be provided to the Trustee without a written request) or to any Holder or Beneficial Owner of \$500,000 or more in principal amount of Outstanding Bonds:

(i) By no later than **[one hundred fifty (150) days]** after the close of each Fiscal Year during the term of this Loan Agreement, commencing with the Fiscal Year ending September 30, 20____, a copy of financial statements of the Borrower (or the consolidated financial statements of Sole Member, if applicable) for the preceding Fiscal Year, containing balance sheets as of the end of Borrower's Fiscal Year and a statement of operations and changes in net assets for the Borrower's Fiscal Year then ended, audited by a certified public accountant..

(ii) By no later than **[one hundred fifty (150) days]** after the last day of each Fiscal Year during the term of this Subordinate Loan Agreement, commencing with the Fiscal Year ending September 30, 20____, a Borrower Certificate stating whether or not, after such review as is appropriate, the Borrower has made a review of its activities during the preceding Fiscal Year for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of this Subordinate Loan Agreement and that the Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition of this Subordinate Loan Agreement on its part to be performed and is not in default in the performance or observance of any of the terms, covenants, provisions, or conditions hereof, or if the Borrower shall be in default such Borrower Certificate shall specify all such defaults and the nature thereof. Such Borrower Certificate shall be substantially in the form attached hereto as EXHIBIT A and shall specifically state whether the Borrower has complied with the Cash on Hand requirement set forth in Section 7.9(b) hereof **and whether the Borrower has maintained the Net Revenues Available for Debt Service requirement as set forth in Section 7.9(a) hereof.****[CAN THIS INSTEAD BE WHAT IS PROVIDED IN THE CDA?].**

(iii) **[By no later than thirty (30) days prior to the commencement of each Fiscal Year during the term of this Subordinate Loan Agreement, commencing October 1, 20____, the annual budget for the Project.]**

(iv) **[By no later than thirty (30) days prior to the commencement of each Fiscal Year during the term of this Loan Agreement, commencing October 1, 20____, the annual budget for the Project.]**

(v) **[On or before the last day of every month while the Project is under construction, commencing _____, 20____, construction progress reports in accordance with the Continuing Disclosure Agreement.**

(vi) **On or before the last day of every month beginning at the end of construction of the Project until ninety percent (90%) occupancy of the Project is complete and then quarterly thereafter, occupancy reports.]**

Section 7.11. Tax Covenants. In order to ensure that the interest on the Tax-Exempt Bonds shall at all times be free from federal income taxation, the Borrower specifically represents, warrants and covenants with the Issuer, the Trustee and all Holders of the Tax-Exempt Bonds:

(a) It will fulfill all conditions specified in Sections 103 and 141 through 150 of the Code and applicable Treasury Regulations as necessary to maintain the tax-exempt status of the interest borne by the Tax-Exempt Bonds.

(b) As long as the Tax-Exempt Bonds are Outstanding, the Project will be owned by a Tax-Exempt Organization or a limited liability company whose sole member is a Tax-Exempt Organization.

(c) Not more than **[three percent (3%)]** of the net proceeds of the Tax-Exempt Bonds will be used either (i) by a Tax-Exempt Organization in an activity that constitutes an unrelated trade or business; or (ii) in a trade or business by a Person other than a Tax-Exempt Organization.

(d) Not more than two percent (2%) of the proceeds of the Tax-Exempt Bonds will be applied to the payment of Costs of Issuance of the Series 2025B Bonds, and all Costs of Issuance in excess of that amount will be paid by the Borrower from funds other than proceeds of the Tax-Exempt Bonds. No proceeds of the Series 2025A Bonds or Series 2025A-T Bonds will be used to pay the costs of issuance of the Series 2025B Bonds, and no proceeds of the Series 2025B Bonds will be used to pay the Costs of Issuance of the Series 2025A or Series 2025A-T Bonds.

(e) The Tax-Exempt Bonds are not and will not become federally guaranteed. For purposes of this Subordinate Loan Agreement “federally guaranteed” does not mean or refer to any investment of the proceeds of the Tax-Exempt Bonds (i) during the initial three (3) year temporary period until the proceeds are needed for the Project; (ii) during the thirteen (13) month temporary period applicable to bona fide debt service fund investments, if any; (iii) as part of a reserve which meets the requirements of a reasonably required reserve or replacement fund; (iv) in obligations issued by the United States Department of the Treasury; or (v) in any other investments permitted by the Code and Treasury Regulations. The foregoing does not apply to any guaranty by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association.

(f) No portion of the proceeds of the Tax-Exempt Bonds will be used to provide any of the following facilities or any facilities related or incidental thereto: any airplane, skybox or other private luxury box, facility used primarily for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(g) As of the Closing Date of the Series 2025A Bonds and the Series 2025B Bonds, the Borrower and the Sole Member are the only “principal users” of the Project and the Borrower will not permit any other Person to become a “principal user” of the Project if such action would cause the interest on the Tax-Exempt Bonds to become subject to federal income taxation in the hands of the Holders thereof.

(h) The weighted average maturity of the Series 2025A Bonds and the Series 2025B Bonds does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the Project financed with the proceeds of the Series 2025A Bonds and Series 2025B Bonds.

(i) Except for the Series 2025A Bonds, no tax-exempt obligations have been or will be issued that are being sold at substantially the same time as the Series 2025B Bonds, pursuant to the same plan of

financing and that are reasonably expected to be paid from substantially the same source of funds as the Series 2025A Bonds. The Series 2025A-T Bonds are taxable obligations.

(j) The Borrower will provide the Issuer all information requested to satisfy the informational requirements set forth in Section 149(e) of the Code, including the information necessary to complete Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, or a successor form ("Form 8038"), of the Internal Revenue Service for the Series 2025B Bonds.

(k) The Borrower will not use the proceeds of the Tax-Exempt Bonds in such a manner as to cause the Tax-Exempt Bonds to be Arbitrage Bonds. To this end, the Borrower shall comply with the provisions of a Borrower Tax Certificate executed by the Borrower in connection with the issuance of any series of Tax-Exempt Bonds.

(l) The Borrower reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Series 2025B Bonds will be used for the Project which will carry out the governmental purpose of the issue within three (3) years of the date the Series 2025B Bonds are issued. Not more than fifty percent (50%) of the proceeds of the Series 2025A Bonds will be invested in investments that are not acquired in order to carry out the governmental purpose of the Series 2025B Bonds and have a substantially guaranteed yield for four (4) years or more..

(m) The Borrower will comply with and fulfill all other requirements and conditions of the Code and Treasury Regulations and rulings issued pursuant thereto relating to the Project to the end that interest on the Tax-Exempt Bonds shall at all times be free from federal income taxation.

(n) Neither the Borrower nor any person under common management and control with the Borrower, will, pursuant to an arrangement, formal or informal, purchase obligations of the Issuer in an amount related to the principal amount of the Series 2025B Bonds.

(o) Other than the Management Agreement, the Borrower will not enter into any agreement for management of the Project unless the Trustee receives an opinion of Bond Counsel to the effect that such agreement does not cause interest on any Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

(p) The Borrower will comply with and observe the provisions and requirements of the Borrower Tax Certificate.

(q) The Borrower has provided, or caused to be provided, to Bond Counsel all documents, instruments and other written material requested by Bond Counsel to enable Bond Counsel to render its opinion with respect to the tax-exempt status of interest on the Series 2025B Bonds. In addition, such documentation provided to Bond Counsel did not and does not contain any untrue statement of a material fact and did not and does not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading with respect to any matter relied upon by Bond Counsel in rendering such opinion, and the Borrower is not aware of any other material information which Bond Counsel has not requested and has not been submitted to Bond Counsel.

(r) The Borrower shall immediately remit to the Trustee, at such time as required by the Trustee for deposit into the Rebate Fund, any amount required to be rebated to the Internal Revenue Service pursuant to the provisions of Section 148 of the Code and this Subordinate Loan Agreement

It is expressly understood and agreed that the Issuer has made no investigation, other than the representations made in Section 2.1(a) and (b) hereof, makes no representation, express or implied, and assumes and shall have no responsibility with respect to whether the interest on any series of Tax-Exempt Bonds is or may remain tax exempt or otherwise excludable from gross income for any income tax purposes, and it is further expressly agreed and understood that the Issuer shall have no obligation to make any investigation respecting such tax exemption or to monitor compliance by the Borrower with any of its “tax” or other covenants herein, or to determine whether the Borrower or any other person has taken such actions (or refrained from acting, as the case may be) as may be necessary to preserve any such tax exemption; provided, however, that the Issuer does acknowledge that under present administrative requirements of the Internal Revenue Service, the Issuer, in connection with the issuance of any series of Tax-Exempt Bonds, is required to execute a Form 8038 (and, if applicable respecting future arbitrage rebate, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, Form 8038-T, or a successor form, of the Internal Revenue Service), and/or such additional forms as may supplement or replace the same, if any, and the Issuer does agree to execute said forms upon request from the Borrower, accompanied by said completed forms; provided that the Issuer shall have no responsibility to complete or file said forms or to investigate the accuracy of the information provided therein, as submitted to the Issuer by or on behalf of the Borrower.

Section 7.12. **[Transactions with Affiliates.** Fund or property transfers from the Borrower to an Affiliate, the Issuer or holders of Indebtedness subordinate to the Bonds (other than operating expenses incurred in the ordinary course of business, transfers for fair market value and regularly scheduled payments on Indebtedness) are not restricted so long as (a) the covenants in Section 7.9 hereof were met in the prior Audited Fiscal Year (this requirement shall not be reduced, qualified or deemed satisfied by any of the provisions contained in Section 7.9 hereof, including any reduction in the Net Revenues Available for Debt Service required to be maintained by future State or federal laws or regulations, nor shall the covenant be deemed satisfied by the retention of an Management Consultant); and (b) no Event of Default has occurred hereunder.]

Section 7.13. **Continuing Disclosure.** The Borrower covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provisions of this Subordinate Loan Agreement, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Trustee may (and, at the request of any Holders of at least twenty-five percent (25%) in aggregate principal amount in Outstanding Bonds, shall, subject to Section 8.03(E) of the Subordinate Indenture) take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower to comply with its obligations under this Section 7.13.

Section 7.14. **Notice to Trustee.** The Borrower shall notify the Trustee, in writing, of any change in the Borrower’s Fiscal Year.

Section 7.15. **Subordination of Management Fees.** Management Fees are subordinate to monthly payments of principal and interest on the Bonds in accordance with Section 4.2 hereof.

ARTICLE VIII

PREPAYMENT

Section 8.1. Prepayments and Credits.

(a) There is reserved to the Borrower the right, and the Borrower is authorized and permitted, at any time and as often as it may choose, to prepay all or any part of the Loan Repayments, and the Issuer agrees that the Trustee may accept such prepayments of Loan Repayments when tendered by the Borrower. The Trustee shall credit such prepayments to the Optional Redemption Fund or if so requested by the Borrower, a subaccount therein. In case the Borrower intends to effect any redemption of Bonds of any series at the election of the Borrower, the Borrower shall, within the time period specified in the Subordinate Indenture, notify the Trustee of its intent to effect such redemption and, if such redemption shall apply to less than all of the Outstanding Bonds, of the principal amount of Outstanding Bonds of any series to be redeemed. All Loan Repayments and other sums prepaid pursuant to this Section 8.1 shall, if requested by the Borrower, be applied to the redemption of Outstanding Bonds in the manner and to the extent provided in Article XII of the Subordinate Indenture and, as to Series 2025B Bonds, in Section 3.03 of the Subordinate Indenture.

(b) The Borrower may, at its option, reduce the amount of any Loan Repayment required with respect to the principal amount of Bonds of any series by an amount equal to the principal amount of Outstanding Bonds of that series maturing or otherwise payable on the next succeeding Principal Payment Date that shall be surrendered uncanceled by the Borrower to the Trustee not less than forty-five (45) days before the appropriate Principal Payment Date, provided that before or simultaneously with any such surrender a Borrower Certificate shall be delivered to the Trustee stating the Borrower's election to use such Bonds for such purpose.

(c) If Term Bonds are redeemed at the option of the Borrower, the Term Bonds so optionally redeemed may, at the option of the Borrower, be applied as a credit against any subsequent Loan Repayment required for payment of such Term Bonds, provided that (i) the Borrower shall have delivered to the Trustee a Borrower Certificate stating its election to apply such Term Bonds as such a credit and specifying the year in which such credit shall apply and (ii) the Borrower may not take such credit less than forty-five (45) days before the appropriate Sinking Fund Payment Date.

Section 8.2. Borrower's Option to Direct Redemption of Bonds.

(a) The Borrower shall have the option to direct the Issuer to call for redemption any or all Bonds then Outstanding in accordance with the provisions of Section 3.05 of the Subordinate Indenture.

(b) To exercise its option under this Section 8.2, (i) if redemption is pursuant to Section 3.05(B) of the Subordinate Indenture, the Borrower must, within one hundred eighty (180) days following the event which is the basis of the option, give the Issuer and Trustee written notice of its exercise of such option; or (ii) if redemption is pursuant to Section 3.05(A) of the Subordinate Indenture, such notice shall be given as provided in Section 12.02 of the Subordinate Indenture, subject to conditions as described in Section 12.05 of the Subordinate Indenture; and (iii) subject to Section 12.05 of the Subordinate Indenture, on or prior to such Redemption Date, the Borrower shall deposit with the Trustee the sum (which may be transferred from the Trust Funds established under the Subordinate Indenture) necessary in order to redeem the Outstanding Bonds at their principal amount plus accrued interest, as described in Section 12.06 of the Subordinate Indenture.

Section 8.3. Redemption of Bonds. If the Borrower is not in default hereunder, the Issuer, at the request of the Borrower, shall forthwith take all steps, if any, that may be necessary under the applicable provisions of the Subordinate Indenture to effect redemption of all or part of the then Outstanding Bonds, as may be specified by the Borrower, on the Redemption Date specified by the Borrower.

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ARTICLE IX

EVENTS OF DEFAULT; REMEDIES

Section 9.1. Events of Default. The following shall be “Events of Default” under this Subordinate Loan Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

(a) default in the payment of any installment of the Loan Repayments when such installment becomes due and payable, or default in the payment of any amounts due pursuant to Section 4.3(b) hereof, and continuance of such default for a period of five (5) days; provided, however, that a default in payment of any Loan Repayment described in Section 4.2(a) hereof shall not be an Event of Default if, pursuant to Section 5.06 of the Subordinate Indenture, the Trustee transfers money from the Debt Service Reserve Fund to the Debt Service Fund in an amount equal to the amount in default;

(b) subject to the provisions of Sections 5.9, 7.9 and 9.12 hereof, default in the performance or breach of any covenant, warranty or representation of the Borrower in this Subordinate Loan Agreement (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 9.1 specifically dealt with), the Mortgage, or any Collateral Document, and continuance of such default or breach for a period of thirty (30) days after there has been given, by registered or certified mail, to the Borrower by the Issuer, the Trustee or the Majority of Bondholders, a written notice, stating it is a “Notice of Default,” specifying such default or breach and requiring it to be remedied; provided, however, that if the Borrower shall fail to cure such default which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be extended, provided that the Trustee has received a Borrower Certificate specifying the date necessary to enable the Borrower to begin and complete such cure through the exercise of due diligence including a certification of the Borrower that it has begun and will diligently prosecute applicable remedies;

(c) the abandonment by the Borrower of the Project or any substantial part thereof, or the operations thereof as herein contemplated, and the continuation thereof for a period of five (5) days after there has been given, by registered or certified mail, written notice to the Borrower by the Issuer, the Trustee, or the Holder or Holders of at least Majority of Bondholders;

(d) the entry of a decree or order by a court having jurisdiction in the premises adjudging the Borrower bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under the Federal Bankruptcy Act or any other applicable federal or State law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Borrower in furtherance of any such action;

(e) any final judgments, or writs or warrants of attachment or of any similar processes in an aggregate amount in excess of the greater of \$250,000 or two and one-half percent (2.5%) of the insured value of the Project entered or filed against the Borrower or against any of its property and remaining unvacated, unpaid, unbonded, uninsured or unstayed for a period of thirty (30) days;

(f) any representation by the Borrower herein is false or misleading in any material respect; or

(g) the Sole Member does not make a payment as required by the terms of the Subordinate Guaranty; or

(h) any default with respect to Long-Term Indebtedness secured on a parity with the Bonds, as more fully described in Section 6.3 hereof; and

provided, however, that if after any default shall have occurred which does not result in a nonpayment of principal, premium, if any, or interest on the Bonds, and prior to the Trustee exercising any of the remedies provided in Section 9.2(a) through (d) below, the Borrower shall have completely cured such default by depositing with the Trustee sufficient moneys or by performing such other acts or things in respect of which it may have been in default under this Subordinate Loan Agreement, as the Trustee shall determine, then in every such case such default shall be waived, rescinded and annulled by the Trustee by written notice given to the Borrower; but no such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

In addition, if the acceleration of the maturity of the Bonds and its consequences shall have been annulled and rescinded pursuant to, and in accordance with the provisions of, Section 7.02 of the Subordinate Indenture, the acceleration of all Loan Repayments, Additional Payments and any other amounts payable hereunder shall likewise be automatically annulled and rescinded, but no such annulment or rescission shall affect any subsequent default or impair any right or remedy consequent thereon.

Section 9.2. Remedies. If any Event of Default shall occur and be continuing, the Trustee may, or if requested in writing by a Majority of Bondholders shall, subject to Section 8.03(E) of the Indenture (other than with respect to subsections (a) and (e) below), exercise one (1) or more of the following remedies:

(a) declare all Loan Repayments, Additional Payments and any other amounts payable hereunder to be immediately due and payable (being an amount equal to that necessary to pay in full the principal of and interest accrued on all Bonds then Outstanding, assuming acceleration of the Bonds under the Subordinate Indenture, and to pay all other amounts payable hereunder and thereunder), whereupon the same shall become immediately due and payable by the Borrower;

(b) exercise any one or more of the remedies specified in Section 2.3 of the Subordinate Mortgage or in any Collateral Document;

(c) petition a court of competent jurisdiction for the appointment of a receiver to take possession of and manage and operate the Project for the benefit of the Holders;

(d) take whatever action at law or in equity may appear necessary or appropriate to collect the Loan Repayments and other amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Subordinate Loan Agreement; or

(e) draw under the Subordinate Guaranty.

In case of any foreclosure or deed in lieu of foreclosure of the Mortgaged Property or any portion thereof, all Loan Repayments, Additional Payments and any other amounts payable hereunder, if not already due pursuant to subsection (a) above, shall automatically become due and payable.

In addition to the foregoing and subject to Section 9.13 hereof, the Issuer shall have the right to take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of the Issuer's Unassigned Rights by the Borrower.

Section 9.3. Manner of Exercise. No remedy herein conferred upon or reserved to the Trustee or Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Subordinate Loan Agreement or now or hereafter existing at law or in equity, including, among other remedies, injunctions to restrain violations or attempted violations of any provision of this Subordinate Loan Agreement by the Borrower. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article IX, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 9.4. Right of Entry. If the Trustee exercises a remedy provided for in Section 9.2(b) hereof, pursuant to a foreclosure of the Mortgage, the Trustee may then or at any time thereafter seek the appointment of a court appointed receiver to take possession of the Mortgaged Property or any portion thereof, and the Borrower covenants in any such event peacefully and quietly to yield up and surrender the Mortgaged Property or such portion thereof to the Trustee.

Section 9.5. Right to Lease. If the Trustee elects to lease the Mortgaged Property or any part thereof, it may collect the rents from such lease and apply the same, first, to the payment of the expense of entry and leasing, and second, to the Loan Repayments payable hereunder. In the event that the proceeds from such lease are not sufficient to pay in full the foregoing, the Borrower shall remain and be liable therefor, and the Borrower promises and agrees to pay the amount of any such deficiency from time to time and the Trustee may at any time and from time to time sue and recover judgment for any such deficiency or deficiencies.

Section 9.6. Collection of Indebtedness by Trustee; Deficiency Judgment.

(a) The Borrower covenants that, if default is made in any payment, then, upon demand of the Trustee or the Issuer, the Borrower will pay to the Trustee the whole amount then due and payable with interest at the respective rates prescribed in the Bonds on overdue principal, premium, if any, and, to the extent that payment of such interest is legally enforceable, on overdue installments of interest; and, in addition thereto, will pay to the Trustee or Issuer such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Issuer and Trustee, their agents and counsel. If the Borrower fails to pay such amounts forthwith upon such demand, the Issuer or the Trustee, in its own name and as trustee of an express trust, shall be entitled to recover judgment against the Borrower for the whole amount so due and unpaid.

(b) The Issuer or the Trustee shall be entitled, if permitted by law, to recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of this Subordinate Loan Agreement or the foreclosure of the Subordinate Mortgage or any Collateral Document, and in case of a sale of the Mortgaged Property, or a portion thereof, or any personal property secured under any Collateral Document, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid.

(c) Any money collected by the Trustee under this Article IX shall be applied as provided in Section 7.04 of the Subordinate Indenture.

Section 9.7. Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Borrower or the property of the Borrower, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same.

Section 9.8. Restoration of Positions. If the Trustee or any Bondholder (solely as provided in the Subordinate Indenture) has instituted any proceeding to enforce any right or remedy under this Subordinate Loan Agreement, the Subordinate Indenture, the Subordinate Mortgage or any Collateral Document, by foreclosure, entry or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or such Bondholder, then and in every such case the Borrower, the Issuer, the Bondholders, and the Trustee shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Issuer, the Bondholders, and the Trustee shall continue as though no such proceeding had been instituted.

Section 9.9. Waiver of Appraisement, Etc., Laws.

(a) To the full extent that it may lawfully so agree, the Borrower will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisement, valuation, stay or extension law now or hereafter in force, in order to prevent or hinder the enforcement of this Subordinate Loan Agreement, the Subordinate Mortgage or any Collateral Document, or the leasing or sale of the Mortgaged Property, or any part thereof, or the sale of the personal property secured under any Collateral Document, or the possession of the Mortgaged Property or any part thereof by any purchaser at any sale; but the Borrower, for itself and all who may claim under it, so far as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws. The Borrower, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the property comprising the Mortgaged Property and any real or personal property secured under any Collateral Document marshalled upon any foreclosure thereof, and agrees that any court having jurisdiction to foreclose the Subordinate Mortgage and any Collateral Document may order the sale of the Mortgaged Property, or any portion thereof, and any real or personal property secured under any Collateral Document, as an entirety.

(b) If any law in this Section 9.9 referred to and now in force, of which the Borrower or its successor or successors might take advantage despite this Section 9.9, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.9.

Section 9.10. Suits to Protect the Security. The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property or any portion thereof by any acts which may be unlawful or in violation of this Subordinate Loan Agreement, and such suits and proceedings as the Trustee may deem expedient to protect its interests in the Mortgaged Property or any portion thereof, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be

unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair the security or be prejudicial to the interests of the Bondholders or the Trustee.

Section 9.11. Agreement to Pay Attorneys' Fees and Expenses. If the Borrower defaults under any provision of this Subordinate Loan Agreement and the Trustee or the Issuer employs attorneys or incurs other expenses for the collection of Loan Repayments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it will on demand therefor pay to the Trustee or the Issuer the reasonable fees of such attorneys and such other expenses so incurred by the Trustee or the Issuer; and as security for the performance of the obligations of the Borrower under this Section 9.11 the Trustee shall have a lien prior to the Bonds upon all property and funds held or collected by the Trustee as such, except funds or investments held in trust for the benefit of the Holders of particular Bonds and funds on deposit in the Rebate Fund.

Section 9.12. Effect of Force Majeure. If by reason of force majeure the Borrower is unable in whole or in part to carry out the agreements on its part contained in this Subordinate Loan Agreement, other than the obligations of the Borrower contained in Section 4.2, 4.3, 5.2(d) and (e), 7.4, 7.5, 7.6, or 7.11 hereof, the Borrower shall not be deemed in breach or violation of any provision of this Subordinate Loan Agreement or in default during the continuance of such inability. The term "force majeure" as used herein means acts of nature; strikes or other similar disturbances; acts of public enemies; rules and regulations promulgated by state or federal agencies; explosions, breakage or accident to machinery, transmission pipes or canals; landslides, floods, earthquakes, windstorms, fires and explosions; or partial or entire failure of utilities. The Borrower agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreements; provided, however, that the settlement of strikes and other similar disturbances shall be within the reasonable discretion of the Borrower, and the Borrower shall not be required to make settlement of strikes and other similar disturbances by acceding to the demands of the opposing party or parties when such course is in the reasonable judgment of the Borrower not in the best interests of the Borrower.

Section 9.13. Issuer's Enforcement Rights. Notwithstanding any provision herein to the contrary:

(a) only the Issuer has the right to extend the thirty (30) day cure period under Section 9.1(b) hereof with respect to any Make Whole Payments;

(b) only the Issuer has the right to waive an Event of Default with respect to any of the Issuer's Unassigned Rights or any due but unpaid Make Whole Payment; and for that purpose the provisions of Section 9.2 hereof apply as if the Issuer were the Trustee; and

(c) the Issuer has the right, without the consent of the Trustee, to take whatever action at law or in equity as may appear necessary or appropriate to collect Make Whole Payments then due or thereafter due, provided that in no event may the Issuer, without the consent of the Trustee, exercise the remedies in Section 9.2(a), (b), or (e) hereof.

ARTICLE X

ASSIGNMENTS, LEASES AND OPERATING ARRANGEMENTS BY THE BORROWER

Section 10.1. No Assignments by Borrower Except as Permitted. Except as otherwise provided in this Article X or in Section 7.4 hereof, the Borrower shall not, without the prior written consent of the Trustee, assign its rights or interests under this Subordinate Loan Agreement.

Section 10.2. Leases and Operating Contracts. [The Borrower may lease any part of the Project, or contract for the performance by others of operations or services on or in connection with the Project, or any part thereof, for any lawful purpose, provided that except for leases in the ordinary course of business (including, without limitation, leases with residents of the Project) (a) no such lease or contract shall be inconsistent with the provisions of this Subordinate Loan Agreement or the Subordinate Indenture, (b) the Borrower shall remain fully obligated and responsible under this Subordinate Loan Agreement to the same extent as if such lease or contract had not been executed, (c) no assignee or lessee shall be allowed to utilize a substantial portion of the Project primarily for an activity which would not itself qualify as furthering the Borrower's exempt purposes, (d) in each case the Borrower shall determine that the lessee or assignee has sufficient financial responsibility and technical competence to render services necessary for the operation of senior independent living, assisted living and memory care facilities, and (e) no assignment shall be for security purposes unless such assignment constitutes a Permitted Encumbrance. In addition, except for leases in the ordinary course of business or leases with Sole Member or the Borrower, each such lease or contract shall be expressly conditioned upon, and shall by its terms not be effective until, an opinion of Bond Counsel shall be given to the Borrower and the Trustee to the effect that the exemption from federal income tax of the interest on the Tax-Exempt Bonds shall not be adversely affected by such lease or contract. Whenever any Event of Default shall have happened and for so long as it shall be subsisting, the Trustee may, by writing addressed to the Borrower and to any assignee, lessee or sublessee known to the Trustee, direct that future rents or other moneys due the Borrower pursuant to any such lease or assignment (other than leases with the Project's tenants) be paid directly to the Trustee for deposit in the Debt Service Fund, and any lease or assignment shall contain a provision recognizing the rights of the Trustee in this regard. Any sums received by the Trustee pursuant hereto shall be credited against the Loan Repayments otherwise due from the Borrower.]

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ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given in the manner and to the addresses specified in Section 14.04 of the Subordinate Indenture, which is incorporated herein by reference.

Section 11.2. Binding Effect. This Subordinate Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Borrower and their respective successors and permitted assigns. Nothing in this Subordinate Loan Agreement, express or implied, shall give to any Person, other than the parties hereto, and their respective successors and permitted assigns hereunder, the Trustee and the Holders of Bonds, any benefit or other legal or equitable right, remedy or claim under this Subordinate Loan Agreement.

Section 11.3. Severability. If any provision of this Subordinate Loan Agreement shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, and the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.4. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 11.5. Amendments, Changes and Modifications. Except as otherwise provided in the Subordinate Indenture, subsequent to the issuance of the Series 2025B Bonds and before the Subordinate Indenture is satisfied and discharged in accordance with its terms, neither this Subordinate Loan Agreement or the Subordinate Mortgage may be effectively amended, changed, modified, altered or terminated nor may any provision be waived hereunder except in accordance with the provisions of Article IX of the Subordinate Indenture.

Section 11.6. Execution Counterparts. This Subordinate Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7. Construction. This Subordinate Loan Agreement shall be construed in accordance with the laws of the State.

Section 11.8. Limitation on Issuer Liability. It is understood and agreed by the Borrower and the Holders that no covenant, provision or agreement of the Issuer herein or in the Bonds or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Bonds, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to this Subordinate Loan Agreement and the application of revenues therefrom and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement therein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from this Subordinate Loan Agreement or revenues therefrom, the Collateral Documents or proceeds of the Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to this Subordinate Loan

Agreement and the application of revenues hereunder as hereinabove provided. The Bonds constitute special, limited obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to this Subordinate Loan Agreement and the Subordinate Indenture, and do not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, the State or any political subdivision thereof or a charge against the Issuer's general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Holders that the Issuer shall incur no pecuniary liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment for the Bonds. The Bonds do not constitute a general obligation of or a charge against the general credit of the Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Bonds against any past, present, or future governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such governing body members, manager, administrator, executive director, officers, employees, legal counsel, advisors, and agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Bonds.

Section 11.9. Form of Documents Delivered to Issuer or Trustee. The forms of all documents required to be delivered to the Issuer or the Trustee under this Subordinate Loan Agreement or the Subordinate Indenture shall comply with the requirements of Article XIV of the Subordinate Indenture.

Section 11.10 Term of Subordinate Loan Agreement. Except as otherwise provided herein, this Subordinate Loan Agreement shall remain in full force and effect from the date of execution of this Subordinate Loan Agreement until such time as the Subordinate Indenture has been discharged in accordance with its terms.

Section 11.11. Electronic Signatures.

(a) The parties agree that the electronic signature of a party to this Subordinate Loan Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Subordinate Loan Agreement. The parties agree that any electronically signed document (including this Subordinate Loan Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

(b) For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; (ii) "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature; (iii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a pdf or other replicating image attached to an e-mail message; and (iv) "pdf" means portable document format.

Section 11.12. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and

other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Subordinate Loan Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date and year first written above.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the Borrower to the Subordinate Loan Agreement dated as of the date and year first written above.

COUNTRY MANOR CAMPUS BRAINERD LLC

By _____
Its _____

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

Dated _____, 20____

The undersigned, a principal financial officer of Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, hereby certifies as follows to U.S. Bank Trust Company, National Association, a national banking association, as trustee (the “Trustee”) under the Subordinate Indenture of Trust, dated as of April 1, 2025 (the “Indenture”), between the City of Brainerd, Minnesota (the “Issuer”) and the Trustee, with reference to the requirement of Section 7.10(b)(ii) of the Subordinate Loan Agreement, dated as of April 1, 2025 (the “Subordinate Loan Agreement”), between the Issuer and the Borrower:

1. The undersigned has made a review of all activities of the Borrower during the preceding Fiscal Year of the Borrower ended September 30, 20__, for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of the Subordinate Loan Agreement.
2. To the undersigned’s knowledge, the Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition in the Subordinate Loan Agreement including, without limitation, the Cash on Hand requirement set forth in Section 7.9(b) of the Subordinate Loan Agreement and the Net Revenues Available for Debt Service Requirement set forth in Section 7.9(a) of the Subordinate Loan Agreement on its part to be performed and no Event of Default or Default has occurred.
3. The undersigned certifies that the following calculations are true and correct based on Borrower’s audited Financial Statements:

(a) Net Revenues Available For Debt Service

Calculation:

Sum of:

(a)	Gross Revenues	_____
(b)	Less: Project Operating Expenses including Management Fees paid to Sole Member (b)-((c)+(d)+(e))	_____
(c)	Less: Extraordinary Gains and Losses	_____
(d)	Less: Unrealized Gains and Losses on Investments	_____
(e)	Less: Losses on Unamortized Discount and Financing Expenses (to the extent included in Project Operating Expenses)	_____
(f)	(b)-((c)+(d)+(e)) =	_____
(g)	Plus: Depreciation, Amortization and Interest Expense	_____
(h)	Plus: Other Non-operating Income and Contributions Available for Debt Service	_____
(i) Total	(a) - (f) + (g) + (h) =	_____

Divided by:

(j) Principal and Interest Requirements on Long-Term Indebtedness excluding Subordinate Indebtedness _____

Total (i) / (j) = _____

Debt Service Coverage Ratio: _____ to 1.00

Covenant Requirement: 1.20 to 1.00

Compliance? (circle one): YES NO

(b) Days Cash on Hand

Calculation:

Sum of Unrestricted and Unencumbered:

(a) Cash _____
(b) Plus: Marketable Securities _____

Total _____

Divided by the quotient of:

(x) Project Operating Expenses excluding depreciation and amortization, and any other non-cash expense and including Management Fees paid to Sole Member _____
(y) Divided by 365

Covenant Requirement: _____ days

Compliance? (circle one): YES NO

Any capitalized terms used herein that are otherwise not defined shall have the meanings assigned to them in the Subordinate Indenture or the Subordinate Loan Agreement.

All amounts and calculations set forth herein are accurate and complete in all respects and are made in accordance with the Subordinate Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed and delivered this Compliance Certificate on the date and year set forth above.

COUNTRY MANOR CAMPUS BRAINERD LLC

By: _____
Name: _____
Title: _____

BOND PURCHASE AGREEMENT

BY AND BETWEEN

**CITY OF BRAINERD, MINNESOTA,
as Issuer**

**COUNTRY MANOR CAMPUS BRAINERD LLC,
as Company**

**THE FOUNDATION FOR HEALTH CARE CONTINUUMS,
as Subordinate Guarantor**

AND

**COLLIERS SECURITIES LLC,
as Underwriter**

Dated April __, 2025

**\$ _____
City of Brainerd, Minnesota
Subordinate Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025B**

This instrument drafted by:
Ballard Spahr LLP (BWJ)
2000 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

\$ _____
City of Brainerd, Minnesota
Subordinate Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025B

PURCHASE AGREEMENT

April __, 2025

Country Manor Campus Brainerd LLC
c/o The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377

City of Brainerd, Minnesota
501 Laurel Street,
Brainerd, MN 56401

The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377

Ladies and Gentlemen:

The undersigned, Colliers Securities LLC (the “Underwriter”), offers to enter into this Bond Purchase Agreement (this “Purchase Agreement”) with the City of Brainerd, Minnesota, a home rule charter city and a municipal corporation organized and existing under the laws of the State of Minnesota (the “Issuer”), as approved and agreed to by Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Company”), whose sole member is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation (“FHCC” or the “Subordinate Guarantor”), and FHCC, for the purchase by the Underwriter of the Issuer’s Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B (the “Series 2025B Bonds” or “Subordinate Bonds”), in the original aggregate principal amount of \$ _____. The Subordinate Bonds are secured by the guaranty of FHCC. This offer is made subject to acceptance by the Issuer and agreement by the Company at or prior to 10:00 A.M. Central time on the date set forth above, and upon such acceptance this Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, the Company, FHCC, and the Underwriter. If not so accepted, this Purchase Agreement will be subject to withdrawal by the Underwriter upon notice delivered by the Underwriter to the Issuer, the Company, and FHCC at any time prior to the acceptance hereof by the Issuer, the Company, and FHCC.

1. **Purchase and Sale.**

Subject to the satisfaction by the Issuer, the Company, and FHCC of the terms and conditions set forth in this Purchase Agreement, subject also to the conditions precedent set forth in this Purchase Agreement, and in reliance upon the representations in this Purchase Agreement set forth or incorporated by reference, the Underwriter hereby agrees to purchase from the Issuer, upon the terms and conditions set forth in this Purchase Agreement, and the Issuer hereby agrees to sell the Subordinate Bonds to the Underwriter. The Subordinate Bonds shall be as described in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum (both as defined below) and Schedule I attached to this Purchase Agreement. The purchase price paid by the Underwriter for the Subordinate Bonds is \$ _____ which amount represents the principal amount of the Subordinate Bonds (\$ _____), [plus/less]

[net] original issue [premium/discount] of \$_____, less the Underwriter's discount of \$_____. [In addition, the Company will also pay the Underwriter a fee of \$_____ plus miscellaneous expenses associated with the sale of the Subordinate Bonds.] Capitalized terms used in this Purchase Agreement and not defined herein shall have the meanings granted to them in the Subordinate Indenture unless context clearly indicates otherwise.

The Subordinate Bonds are being issued by the Issuer pursuant to: (i) Minnesota Statutes, Chapter 462C, as amended, and Minnesota Statutes, Sections 469.152-1655, as amended (the "Act"); (ii) a resolution of the City Council of the Issuer; and (iii) a Subordinate Indenture of Trust, dated as of April 1, 2025 (the "Subordinate Indenture"), between the Issuer and U.S. Bank Trust Company, National Association, as trustee thereunder (the "Subordinate Trustee"). The Issuer will loan the proceeds of the Subordinate Bonds to the Company pursuant to a Subordinate Loan Agreement, dated as of April 1, 2025 (the "Subordinate Loan Agreement"), between the Issuer and the Company, to be used, along with proceeds of the Issuer's (i) Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A (the "Series 2025A Bonds"), and (ii) Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the "Series 2025A-T Bonds," and together with the Series 2025A Bonds, the "Senior Bonds"), and funds of the Company to finance the Project. Capitalized terms used but not defined in this Purchase Agreement shall have the meaning given to them in the Preliminary Limited Offering Memorandum.

Subordinate Bonds will be secured by a pledge of payments to be received by the Issuer pursuant to the terms of (a) the Subordinate Loan Agreement, (b) certain funds held under the Subordinate Indenture, (c) a Subordinate Combination Construction Mortgage, Security Agreement and Fixture Financing Statement, and Assignment of Leases and Rents, dated as of April 1, 2025 (the "Subordinate Mortgage") from the Company to the Subordinate Trustee, and (d) a Guaranty Agreement, dated as of April 1, 2025 (the "Subordinate Guaranty"), between the Subordinate Guarantor and the Trustee. This Purchase Agreement and the following documents: (i) the Subordinate Indenture, (ii) the Subordinate Loan Agreement, (iii) the Subordinate Mortgage, (iv) the Continuing Disclosure Agreement, dated as of April 1, 2025 (the "Subordinate Disclosure Agreement"), by the Company and U.S. Bank Trust Company, National Association, as dissemination agent, relating to the Subordinate Bonds, (v) the Subordinate Guaranty, (vi) the Assignment and Subordination of Management Agreement, dated as of April 1, 2025 (the "Assignment of Management Agreement"), by the Company and consented to by Continuums Management Services LLC, as manager; (vi) the Assignment and Pledge Agreement, dated as of April 1, 2025, by the Company in favor of the Trustee[, and consented to by the City]; (vi) the Collateral Assignment of Architect's Contract, dated as of April 1, 2025, by the Company in favor of the Trustee, and consented to by the Architect; (vii) the Collateral Assignment of Design-Build Contract, dated as of April 1, 2025, by the Company in favor of the Trustee, and consented to by the Contractor; (viii) the Disbursing Agreement, dated as of April 1, 2025, between the Company, the Trustee, and Guaranty Commercial Title, Inc., as the title company; (ix) the Bank Qualified Fee Agreement, dated as of April 1, 2025, between the Company and the Issuer; and (viii) other documents executed and delivered in connection with the Subordinate Bonds are collectively referred to herein as the "Subordinate Documents."

It is understood and agreed that the Subordinate Bonds and the interest thereon are special, limited obligations of the Issuer payable solely from: (i) payments or prepayments pledged under the Subordinate Indenture (including payments under the Subordinate Guaranty); (ii) Loan Payments to be made under the Subordinate Loan Agreement; (iii) money and investments held by the Subordinate Trustee under, and to the extent provided in, the Subordinate Indenture; and (iv) amounts realized upon foreclosure of the Subordinate Mortgage. The Subordinate Bonds shall never constitute general indebtedness of the Issuer within the meaning of any state constitutional or statutory provision and do not give rise to a general or moral obligation of the Issuer, the County of Crow Wing (the "County"), the State of Minnesota (the "State"), or any of its political subdivisions, and do not constitute a charge against the Issuer's property,

general credit or taxing powers. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Senior Bonds against any past, present, or future officer, director, counsel, advisor, employee, contractor, consultant, executive director, program manager, or agent of the Issuer, or of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, counsel, advisors, employees, contractors, consultants, executive directors, program managers, or agents, as such, has been expressly waived and released as a condition of any consideration for the execution and issuance of the Subordinate Bonds.

The Issuer and the Company acknowledge and agree that (i) the purchase and sale of the Subordinate Bonds pursuant to this Purchase Agreement is an arm's-length commercial transaction between the Issuer, the Company, FHCC, and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the Issuer, the Company, or FHCC, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the Issuer, the Company, or FHCC with respect to (x) the offering of the Subordinate Bonds or the process leading thereto or (y) any other obligation to the Issuer, the Company, or FHCC except the obligations expressly set forth in this Purchase Agreement, and (iv) the Issuer, the Company, and FHCC have consulted with their own legal and other professional advisors to the extent they each deemed appropriate in connection with the offering of the Subordinate Bonds.

The Company, FHCC, and the Issuer acknowledge that the Underwriter, without regard to priority, may allocate the Subordinate Bonds between customer orders and orders that could be considered to be from "related accounts" for purposes of MSRB Rule G-11. The Issuer and the Company hereby agree to the Underwriter's allocation of the Subordinate Bonds to the orders that the Underwriter received during the order period for the Subordinate Bonds, regardless of priority between customer accounts and those accounts that could be considered "related accounts."

2. Limited Offering Memorandum.

(a) The Company shall deliver or cause to be delivered to us, promptly upon the completion thereof, copies of the Limited Offering Memorandum of the Company relating to the Subordinate Bonds, dated the date hereof (the "Limited Offering Memorandum"). The Company, pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") under the Securities Exchange Act of 1934, as amended (the "1934 Act"), agrees to deliver to the Underwriter, at such addresses as the Underwriter shall specify, as many copies of the Limited Offering Memorandum as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board (the "MSRB"). The Company agrees to deliver such Limited Offering Memorandums within seven (7) business days after the execution of this Purchase Agreement.

(b) In connection with the public offering and sale of the Subordinate Bonds, the Issuer consents to and the Company and FHCC consent to and ratify the use by the Underwriter of copies of the Limited Offering Memorandum with respect to the Subordinate Bonds, the Subordinate Indenture, the Subordinate Loan Agreement, the Subordinate Mortgage, and the other documents described therein. The Company and FHCC ratify and consent to the use by the Underwriter of the Preliminary Limited Offering Memorandum, dated _____, 2025 (the "Preliminary Limited Offering Memorandum") and the Limited Offering Memorandum in connection with the offer and sale of the Subordinate Bonds.

(c) The Underwriter shall give written notice to the Company, FHCC, the Issuer and any additional "issuer" on the date after which no participating underwriter, as such term is defined in the Rule, remains obligated to deliver Limited Offering Memorandums pursuant to paragraph (b)(4) of the Rule.

(d) The Underwriter agrees from the time the Limited Offering Memorandum becomes available until the earlier of (i) ninety (90) days from the end of the underwriting period, or (ii) the time when the Limited Offering Memorandum is available to any person from a nationally recognized municipal securities information repository, but in no case less than twenty-five (25) days following the end of the underwriting period, to send or cause to be sent no later than the next business day, by first class mail or other equally prompt means to any potential customer, on request, at least one copy of the Limited Offering Memorandum, as most recently supplemented or amended.

3. **Representations.**

(a) The Issuer represents, warrants, and agrees with the Underwriter as follows:

(i) The Issuer has not participated in the preparation of the Preliminary Official Statement or the Official Statement relating to the Subordinate Bonds and has made no independent investigation with respect to the information contained therein, including any appendices thereto. The statements and information contained in the Preliminary Limited Offering Memorandum (to the extent not modified in the Limited Offering Memorandum) and the Limited Offering Memorandum with respect to the Issuer under the captions “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION - The Issuer” (together, the “Issuer Portion” of the Limited Offering Memorandum) are, and as of the date of Closing (as defined below) such information will be, true and correct in all material respects, and the Issuer Portion of the Limited Offering Memorandum does not and will not contain any untrue or misleading statement of a material fact relating to the Issuer or omit to state any material fact relating to the Issuer necessary to make the statements therein in light of the circumstances under which they were made, not misleading.

(ii) The Issuer is a home rule charter city and a municipal corporation organized and existing under its City Charter and the laws of State and, based solely upon an opinion of Bond Counsel, the Issuer has full legal right, power and authority pursuant to the Constitution and laws of the State, including the Act, to issue bonds for the purposes stated in the Subordinate Indenture, to enter into this Purchase Agreement, the Subordinate Indenture and the Subordinate Loan Agreement, to pledge the trust estate as defined in the Subordinate Indenture and as described in the Limited Offering Memorandum, and to loan the proceeds of the Subordinate Bonds to the Company to be applied to the purposes stated in the Subordinate Indenture.

(iii) To the actual knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, execution and delivery of this Purchase Agreement does not, and the adoption of the Resolution and the execution and delivery of the Subordinate Bonds, the Subordinate Indenture, the Subordinate Loan Agreement, and compliance with the provisions of each of them, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of the Issuer a breach of or default under any other agreement or instrument to which the Issuer is a party or any existing law, administrative regulation, court order or consent decree to which the Issuer is subject.

(iv) With respect to such matters that are preconditions to the issuance of the Subordinate Bonds that are identified in the Act and the Subordinate Indenture, the Issuer has, to its knowledge, based on advice of bond counsel, and at the date of the Closing will have, in all respects complied therewith.

(v) To the actual knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, all approvals, consents and orders of any governmental authority, board,

agency, council, commission or other body in or of the Issuer or the State having jurisdiction which would constitute a condition precedent to the performance by the Issuer of its obligations hereunder and under the Subordinate Indenture and the Subordinate Bonds, have been obtained or, if not, will be obtained at the time of or prior to the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase of the Subordinate Bonds by the Underwriter).

(vi) The City Council of the Issuer, on March 17, 2025 duly adopted a resolution (the “Resolution”) authorizing the issuance, execution, delivery and performance of the Subordinate Bonds, the Subordinate Loan Agreement, the Subordinate Indenture, and this Purchase Agreement. The Resolution has not been repealed, rescinded, amended or revoked.

(vii) To the knowledge of the persons executing this Purchase Agreement on behalf of the Issuer, no litigation is pending or, to the actual knowledge of the Issuer, threatened (A) seeking to restrain or enjoin the issuance or delivery of any of the Subordinate Bonds or the application of proceeds of the Subordinate Bonds as provided in the Subordinate Indenture or the collection of revenues of the Issuer pledged under the Subordinate Indenture, (B) in any way contesting or affecting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds, the Resolution, the Subordinate Indenture, the Subordinate Loan Agreement, or this Purchase Agreement, or (C) in any way contesting the existence or powers of the Issuer.

(viii) The Issuer Portion of the Preliminary Official Statement was, as of its date, and is, as of this date, “final” within the meaning of paragraph (b)(1) of the Rule.

(b) The Company represents, warrants, and agrees with the Underwriter that:

(i) The statements and the information set forth in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum (including the appendices thereto and to the extent not modified from the information contained in the Preliminary Limited Offering Memorandum) are true and correct in all material respects, and the statements and the information set forth under the heading “RISK FACTORS” are a fair description of the risk factors related to the Subordinate Bonds. As described in this paragraph, such information in the Preliminary Limited Offering Memorandum does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

(ii) If, at any time prior to the earlier of (A) receipt of notice from the Underwriter pursuant to Section 2(c) hereof that Limited Offering Memorandum is no longer required to be delivered under the Rule or (B) ninety (90) days after the Closing, any event occurs known to the Company (or which should have been known to the Company upon diligent inquiry) as a result of which the Limited Offering Memorandum as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Company shall promptly notify the Underwriter, the Issuer, and FHCC thereof in writing. Upon the request of the Underwriter, the Company shall prepare and deliver or cause the preparation and delivery to the Underwriter, the Issuer, and FHCC, at the expense of the Company, as many copies of an amendment or supplement to the Limited Offering Memorandum as the Underwriter and the Issuer may reasonably request which corrects any untrue statement or omission therein.

(iii) The Company is duly organized and existing as a Minnesota nonprofit limited liability company, whose sole member is FHCC. The Company has full legal right, power and

authority to enter into the Subordinate Documents, and to carry out and consummate all transactions contemplated by such documents.

(iv) The execution and delivery of this Purchase Agreement and compliance with the provisions hereof do not, in any material respect, conflict with or constitute on the part of the Company a breach of or default under any other agreement or instrument to which the Company is a party or, to the Company's knowledge, any existing law, administrative regulation, court order or consent decree to which the Company is subject.

(v) All approvals, consents and orders of any governmental authority, board, agency, council, commission or other body in or of any state and the federal government having jurisdiction which would constitute a condition precedent to the performance by the Company of its obligations hereunder and under the other Subordinate Documents have been obtained or, if not, are expected to be promptly obtained by the Company for its operation of the Project as soon as commercially possible after the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase and sale of the Subordinate Bonds by the Underwriter).

(vi) This Purchase Agreement assuming due authorization, execution and delivery by the other parties hereto, constitutes a valid and binding obligation of the Company, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

(vii) No litigation to which the Company is a party is pending or, to the knowledge of the Company, threatened (A) seeking to restrain or enjoin the issuance or delivery of the Subordinate Bonds or the application of proceeds of the Subordinate Bonds as provided in the Subordinate Loan Agreement, (B) in any way contesting or affecting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds, or any other Subordinate Documents, or (C) in any way affecting, in a material adverse manner, the property of the Company or contesting the existence or powers of the Company or the Company's ownership and operation of the Project.

(viii) Based on information provided by legal counsel to the Company, the Preliminary Limited Offering Memorandum was, as of its date, and is, as of this date, "final" within the meaning of (b)(1) of the Rule.

(ix) The Company has not been, within the last five (5) years, in default as to principal or interest with respect to any obligation issued or guaranteed by the Company or with respect to which the Company is an obligor.

(x) The Company will take no action that could cause the interest on the Subordinate Bonds to be subject to federal or state income taxation.

(xi) So long as the Subordinate Bonds are outstanding, the Company will maintain its status as a Minnesota nonprofit limited liability company and will use its best efforts to cause FHCC to be an organization described in Section 501(c)(3) of the Code that has elected to treat the Company as a disregarded entity for both federal and State tax purposes, and will take no action that would jeopardize such status.

(c) FHCC represents, warrants, and agrees with the Underwriter that, as the date hereof and at the date of Closing:

(i) The statements and the information set forth in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum (including the appendices thereto and to the extent not modified from the information contained in the Preliminary Limited Offering Memorandum) concerning FHCC, FHCC's financial information (as defined in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum), and FHCC's participation in the transactions contemplated by the Subordinate Guaranty including the information in Appendix B to the Limited Offering Memorandum (collectively, the "FHCC Portion") are true and correct in all material respects, and the statements and the information set forth under the heading "RISK FACTORS – Risk Factors Relating to Sole Member/Guarantor" is a fair description of the risk factors related to FHCC. As described in this paragraph, such information in the Preliminary Limited Offering Memorandum does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

(ii) FHCC is duly organized and existing as a Tennessee nonprofit corporation with authority to do business in the State and FHCC has full legal right, power and authority to enter into the Subordinate Guaranty, and to carry out and consummate all transactions contemplated by such documents.

(iii) The execution and delivery of this Purchase Agreement and compliance with the provisions hereof, under the circumstances contemplated hereby, do not, in any material respect, conflict with or constitute on the part of FHCC a breach of or default under any other agreement or instrument to which FHCC is a party or, to FHCC's knowledge, any existing law, administrative regulation, court order or consent decree to which FHCC is subject.

(iv) All approvals, consents and orders of any governmental authority, board, agency, council, commission or other body in or of any state and the federal government having jurisdiction which would constitute a condition precedent to the performance by FHCC of its obligations hereunder and under the Subordinate Guaranty have been obtained or, if not, are expected to be promptly obtained by FHCC as soon as commercially possible after the Closing (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the purchase and sale of the Subordinate Bonds by the Underwriter).

(v) This Purchase Agreement assuming due authorization, execution and delivery by the other parties hereto, constitutes a valid and binding obligation of FHCC, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

(vi) No litigation to which FHCC is a party is pending or, to the knowledge of FHCC, threatened (A) seeking to restrain or enjoin the issuance or delivery of the Subordinate Bonds or the application of proceeds of the Subordinate Bonds as provided in the Subordinate Loan Agreement, (B) in any way contesting or affecting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds, or any FHCC Document, or (C) in any way affecting, in a material adverse manner, the property of FHCC or contesting the existence or powers of FHCC.

(vii) FHCC will take no action that could cause the interest on the Subordinate Bonds to be subject to federal or state income taxation.

(viii) So long as the Subordinate Bonds are outstanding, FHCC will maintain its status as a nonprofit corporation described in Section 501(c)(3) of the Code and will take no action that would jeopardize such status.

(d) The Underwriter represents, warrants, and agrees as follows:

(i) The Underwriter is a registered broker/dealer in each state in which it proposes selling the Subordinate Bonds, has full power and authority to enter into this Purchase Agreement, and will comply with all federal and applicable state securities laws in each state in which it proposes selling the Subordinate Bonds.

(ii) The Subordinate Bonds to be sold to the initial purchasers pursuant to this Purchase Agreement shall be in minimum denominations of \$25,000 or any integral multiple of \$5,000 in excess thereof (each an “Authorized Denomination”).

4. **Closing.** At 12:00 Noon, Central time, on _____, 2025 or such later date as we mutually agree upon (the “Closing”), the Issuer will deliver or cause to be delivered to us, at the offices of the Underwriter or at such other place as we may mutually agree upon, the Subordinate Bonds in definitive fully registered form, duly executed and authenticated. In addition, the other documents hereinafter mentioned will be delivered at the offices of Kutak Rock LLP (“Bond Counsel”) in Minneapolis, Minnesota, and the Underwriter will accept such delivery and pay the purchase price thereof in federal funds payable to the order of the Issuer or the order of such person as the Issuer shall direct and such funds shall be available to the Issuer on the date of Closing.

The Subordinate Bonds will be delivered as fully registered bonds in Authorized Denominations, registered in the name of Cede & Co. and in such amounts as the Underwriter may have requested not less than five (5) business days (or other date as mutually agreed to) prior to the Closing. The Issuer will deposit with the Subordinate Trustee, as agent to The Depository Trust Company (or such other acceptable depository institution), all of the Subordinate Bonds.

It is anticipated that CUSIP identification numbers will be printed on the Subordinate Bonds, but neither the failure to print such numbers on any Subordinate Bond nor any error in the printing of such numbers on any Subordinate Bond shall constitute cause for a failure or refusal by the Underwriter to accept delivery of and pay for any Subordinate Bonds. The Underwriter and the Issuer will cooperate to obtain the CUSIP numbers.

5. **Conditions Precedent.** The Underwriter has entered into this Purchase Agreement in reliance upon (i) the representations, warranties and agreements of the Issuer contained in this Purchase Agreement, the Subordinate Indenture, the Subordinate Loan Agreement, and the Resolution; (ii) the representations, warranties and agreements of the Company contained in this Purchase Agreement and in the other Subordinate Documents; (iii) the representations, warranties and agreements of FHCC contained in this Purchase Agreement and in the Subordinate Guaranty; and (iv) the performance by the Issuer, FHCC, and the Company of their obligations hereunder, if any, and under the above-mentioned documents, both as of the date hereof and as of the date of the Closing. The Underwriter’s obligations under this Purchase Agreement are and shall be subject to the following further conditions:

(a) The representations and warranties of the Issuer, the Company, and FHCC contained in this Purchase Agreement shall be true, complete and correct on the date of acceptance hereof and on and as of the date of the Closing with the same effect as if made on the date of the Closing.

(b) At the time of the Closing, the Limited Offering Memorandum, the Resolution, the Act, the Subordinate Indenture, the Subordinate Documents, the Senior Documents, and the Subordinate Guaranty shall be in full force and effect, shall each be in form and substance acceptable to the Underwriter in all respects, and shall not have been amended, modified or supplemented except as may have been agreed to in writing by us; provided that payment of the purchase price of the Subordinate Bonds shall unconditionally evidence such agreement, and the Issuer, the Company, and FHCC shall have duly adopted or entered into as the case may be, and there shall be in full force and effect such resolutions, and such agreements, as, in the opinion of Bond Counsel, and in the opinion of Ballard Spahr LLP, counsel to the Underwriter (“Underwriter’s Counsel”), shall be necessary in connection with the transactions contemplated hereby or the documentation of security for the Subordinate Bonds.

(c) The Underwriter may terminate this Purchase Agreement by notification in writing to the Issuer, the Company, and FHCC, if at any time subsequent to the date hereof and at or prior to the Closing: (i) legislation shall be enacted by, or favorably reported out of committee to, either House of the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, or a regulation or ruling shall be issued or proposed by or on behalf of the Treasury Department, the Internal Revenue Service of the United States of America, or an executive order of the President of the United State of America, or any other agency of the federal government having jurisdiction, or a release or official statement shall be issued by the Treasury Department, the Internal Revenue Service of the United States of America, or any other agency of the federal government having jurisdiction, with respect to federal taxation upon interest received on obligations of the character of the Subordinate Bonds, which, in the reasonable judgment of the Underwriter, materially adversely affects the market for the Subordinate Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Subordinate Bonds; or (ii) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission is issued or made to the effect that the issuance, offering, sale or distribution of obligations of the character of the Subordinate Bonds is in violation of any provisions of the Securities Act of 1933, as amended (the “1933 Act”), or of the Trust Indenture Act of 1939, as amended (the “1939 Act”); or (iii) the Congress of the United States of America enacts a law, or a bill is favorably reported out of committee of either House, or a decision by a court of the United States of America is rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or any other agency of the Federal government having jurisdiction of the subject matter is made, to the effect that securities of the Issuer or of any similar public body are not exempt from the registration, qualification or other requirements of the 1933 Act or the 1939 Act; or (iv) the United States of America becomes engaged in hostilities which have resulted in a declaration of war or a national emergency other than such as exist on the date of this Purchase Agreement; or (v) there occurs a general suspension of trading on the New York Stock Exchange; or (vi) a general banking moratorium is declared by the United States of America, State of New York or State of Minnesota authorities; or (vii) an event occurs which in the reasonable judgment of the Underwriter (1) makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Limited Offering Memorandum or which is not reflected in the Limited Offering Memorandum but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect, or (2) materially adversely affects the market for the Subordinate Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Subordinate Bonds; or (viii) all documentation in connection with the issuance of the Subordinate Bonds is no satisfactory in form and substance to the Underwriter or its counsel; or (ix) economic, market or other conditions occur or exist which, in the judgment of the Underwriter, render the Subordinate Bonds incapable of being sold on terms acceptable to the Underwriter; or (x) the results of any due diligence efforts by the Underwriter with respect to the proposed issuance of the Subordinate Bonds

shall not, in the sole discretion of the Underwriter, be satisfactory to the Underwriter; or (xi) any suit, proceeding, litigation or other action is commenced, or, if commenced prior to the date hereof, is continuing or have been adjudicated, which, in any event, in the reasonable judgment of the Underwriter, may affect the marketing, sale or delivery of the Subordinate Bonds; or (xii) the Underwriter, the Company, FHCC, and the Issuer have not reached agreement as to the terms of any of the agreements referred to in this Purchase Agreement; or (xiii) there shall have occurred any national or international calamity or crisis, or escalation thereof, in the financial markets or otherwise of the United States of America; or (xiv) a default has occurred with respect to the obligations of, or proceedings have been instituted under the federal bankruptcy laws or any similar state laws by or against, any state of the United States of America, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Subordinate Bonds; or (xv) the sovereign debt rating of the United States of America is downgraded by any major credit rating agency or a payment default occurs on United States Treasury obligations, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Subordinate Bonds.

(d) At or prior to the Closing, the Underwriter shall have received the following documents (in each case with such changes as the Underwriter shall approve):

(i) The unqualified approving opinion of Kutak Rock LLP, as Bond Counsel, dated the date of the Closing, in form acceptable in all respects to the Underwriter and Underwriter's Counsel (substantially in the form attached as APPENDIX G to the Official Statement, without material modifications or alterations);

(ii) A supplemental opinion of Kutak Rock LLP, as Bond Counsel, in substantially the form attached hereto as EXHIBIT B;

(iii) One or more opinions of Wornson Goggins Zard Neisen Morris & Brever, PC, as counsel to the Company and FHCC, dated the date of Closing, and addressed to Bond Counsel and the Underwriter, in substantially the form attached hereto as EXHIBIT B;

(iv) An opinion of Ballard Spahr LLP, as Underwriter's Counsel, dated the date of the Closing, and addressed to the Underwriter, in form and substance acceptable to the Underwriter;

(v) A certificate of the Issuer, signed by an Issuer Representative, dated the date of the Closing, to the effect that, to the actual knowledge of the Issuer Representative that (A) the representations of the Issuer contained in this Purchase Agreement and in the Resolution, the Subordinate Indenture, and the Subordinate Loan Agreement are true and correct in all material respects as of the date of the Closing; and (B) no litigation is pending or, to the actual knowledge of the Issuer, without investigation or inquiry, threatened, against the Issuer (1) seeking to restrain or enjoin the issuance or delivery of any of the Subordinate Bonds or the collection of revenues or other security pledged under the Subordinate Indenture or the Resolution, (2) in any way contesting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds, the Resolution, the Subordinate Indenture, the Subordinate Loan Agreement, or this Purchase Agreement, or (3) in any way contesting the existence or powers of the Issuer; and (C) the information in the Issuer Portion of the Preliminary Limited Offering Memorandum was as of its date, and of the Limited Offering Memorandum is, true and correct in all material respects;

(vi) A certificate of the Company, signed by an authorized representative of the Company, dated the date of the Closing, to the effect that (A) the representations, warranties and

agreements of the Company contained in this Purchase Agreement and in the Subordinate Documents are true and correct in all material respects as of the date of the Closing; (B) no litigation to which the Company is a party is pending or, to the knowledge of the Company, threatened, (1) seeking to restrain or enjoin the issuance or delivery of any of the Subordinate Bonds or the collection of revenues or other security pledged under the Subordinate Indenture, (2) in any way contesting or affecting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds, the Resolution, the Subordinate Indenture or any of the Subordinate Documents, or (3) in any way contesting the existence or powers of the Company; (C) no event affecting the Company has occurred since the date of the Limited Offering Memorandum that should be disclosed in the Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (D) the information in the Preliminary Limited Offering Memorandum was as of its date, and in the Limited Offering Memorandum is, true and correct in all material respects, and the information under the heading “RISK FACTORS” is a fair description of the risk factors related to the Company’s proposed operations and the Project; (E) all resolutions and other actions required to be approved or taken by or on behalf of the Company authorizing and approving the transactions described or contemplated in this Purchase Agreement or in the Limited Offering Memorandum, the execution of or approval of the respective forms of, as the case may be, this Purchase Agreement, the Subordinate Indenture, the Subordinate Documents and the Subordinate Bonds have been duly approved by the Company, are in full force and effect and have not been modified, amended or repealed; (F) the Company is a nonprofit limited liability company organized and validly existing under the laws of the State with full power and authority to own its properties and conduct its business; (G) the Company has all necessary licenses, approvals, accreditations and permits presently required under federal, state and local laws to operate and conduct its business as currently operated or, if the Company does not currently have such licenses, approvals, accreditations and permits, they are expected to be promptly obtained by the Company as soon as commercially possible; (H) the execution and delivery of the Subordinate Documents and compliance with the provisions of each of them, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of the Company a breach of or default under any other agreement or instrument to which the Company is a party or, to the Company’s knowledge, any existing law, administrative regulation, court order or consent decree to which the Company is subject; and (I) the Subordinate Documents and the Senior Documents, assuming due authorization, execution and delivery by the other parties thereto, each constitute a valid and binding obligation of the Company, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors’ rights or remedies heretofore or hereafter enacted;

(vii) A certificate of FHCC, signed by an authorized representative of FHCC, dated the date of the Closing, to the effect that (A) no litigation is pending or to its knowledge threatened, (1) seeking to restrain or enjoin the issuance or delivery of any of the Subordinate Bonds or the collection of revenues or other security pledged under the Subordinate Indenture, (2) in any way contesting or affecting any authority for the issuance of the Subordinate Bonds or the validity of the Subordinate Bonds or the Subordinate Guaranty, or (3) in any way contesting the existence or powers of FHCC; (B) no event affecting FHCC has occurred since the date of the Limited Offering Memorandum that should be disclosed in the Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (C) the FHCC Portion of the Preliminary Limited Offering Memorandum was as of its date, and of the Limited Offering Memorandum is, true and correct in all material respects, and the information under the heading relating to FHCC “RISK FACTORS” is a fair description of the risk factors related to FHCC’s operations; (D) all resolutions and other actions required to be approved or taken by or on behalf

of FHCC authorizing and approving the transactions described or contemplated in this Purchase Agreement, the Subordinate Guaranty, or in the Limited Offering Memorandum, the execution of or approval of the respective forms of, as the case may be, this Purchase Agreement, the Subordinate Guaranty, and the Limited Offering Memorandum have been duly approved by FHCC, are in full force and effect and have not been modified, amended or repealed; (E) FHCC is a Tennessee nonprofit corporation organized and validly existing under the laws of the State with full power and authority to own its properties and conduct its business; (F) FHCC has all necessary licenses, approvals, accreditations and permits presently required under federal, state and local laws to operate and conduct its business as currently operated or, if FHCC does not currently have such licenses, approvals, accreditations and permits, they are expected to be promptly obtained by FHCC as soon as commercially possible; (G) the execution and delivery of the Subordinate Guaranty and compliance with the provisions thereof, under the circumstances contemplated thereby, will not, in any material respect, conflict with or constitute on the part of FHCC a breach of or default under any other agreement or instrument to which FHCC is a party or, to FHCC's knowledge, any existing law, administrative regulation, court order or consent decree to which FHCC is subject; and (H) this Purchase Agreement and the Subordinate Guaranty, when each of them has been executed and delivered by FHCC, will, assuming due authorization, execution and delivery by the other parties thereto, each constitute a valid and binding obligation of FHCC, enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted;

(viii) Certified copies of the Company's resolutions or comparable actions of its governing body authorizing the execution and delivery of the Subordinate Documents and approving the Subordinate Bonds;

(ix) Certified copies of the resolutions of FHCC or comparable actions of its Board of Directors authorizing the execution and delivery of this Purchase Agreement and the Subordinate Guaranty;

(x) Receipt of Certificate of Insurance acceptable to the Underwriter demonstrating that the Company has obtained the insurance policies required by the terms of the Subordinate Loan Agreement,

(xi) A lender's title insurance policy, relating to the Project, and the land upon which the Project is constructed, from the Disbursing Agent in a form satisfactory to the Underwriter and Bond Counsel insuring a subordinate mortgage lien in the site of the Project;

(xii) An execution copy or other copy, certified to the Underwriter's satisfaction as true and correct, of each of the following items: the Subordinate Documents; the Subordinate Guaranty; the Resolution; the Senior Documents; the articles of organization and bylaws of the Company, the articles incorporation and bylaws of FHCC; a certificate of good standing in the State for the Company; and certificates of good standing in the State and the State of Tennessee for FHCC;

(xiii) Issuance of the Senior Bonds by the Issuer and evidence satisfactory to the Underwriter that the Issuer, the Company, U.S. Bank Trust Company, National Association, in its capacity as trustee with respect to the Senior Bonds, and FHCC have entered into the financing and security documents related to the Senior Bonds; and

(xiv) Such additional legal opinions, certificates, proceedings, agreements, instruments and other documents as counsel for the Underwriter or Bond Counsel may reasonably request to evidence compliance with any legal requirements, to provide such additional assurances as the

Underwriter may request, regarding the truth and accuracy, as of the time of Closing, of any representations given and the due performance or satisfaction at or prior to such time of all agreements then to be performed and all conditions then to be satisfied as conditions precedent to the issuance of the Subordinate Bonds.

If the Issuer, FHCC, or the Company shall be unable for any reason to satisfy the conditions of the Underwriter's obligation contained in this Purchase Agreement or if the Underwriter's obligation shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter, the Issuer, FHCC, nor the Company shall have any further obligations or liability hereunder, except that the respective obligations of the Issuer, the Company, and the Underwriter set forth in Section 7 hereof, shall continue in full force and effect.

6. **Amendments to Limited Offering Memorandum.** After the date of the Limited Offering Memorandum and so long as the Underwriter, or dealers, if any, participating in the original distribution of the Subordinate Bonds, are offering Subordinate Bonds which constitute the whole or a part of their unsold participations, the Company will (a) not adopt any amendment of or supplement to the Limited Offering Memorandum without the prior written consent of the Underwriter, and (b) during such period or for forty-five (45) days from the date of the Closing, whichever is earlier, if any event relating to or affecting the Limited Offering Memorandum shall occur as a result of which, in the reasonable judgment of the Underwriter, it is necessary to amend or supplement the Limited Offering Memorandum in order to make the Limited Offering Memorandum not misleading in light of the circumstances existing at the time it is delivered to a purchaser, forthwith prepare and furnish to the Underwriter, at the expense of the Company, a reasonable number of copies of an amendment of or supplement to the Limited Offering Memorandum (in form and substance satisfactory to counsel for the Underwriter) so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time the Limited Offering Memorandum is delivered to a purchaser, not misleading. For the purposes of, and during the period of time provided by this Section, the Company will furnish, or cause to be furnished, such information with respect to itself as the Underwriter may from time to time reasonably request in writing.

7. **Payment of Expenses.**

(a) Upon and subject to the issuance, sale and delivery of the Subordinate Bonds by the Issuer, the Company agrees to pay either directly or, to the extent permitted under federal tax law as determined by Bond Counsel, from the proceeds of the Subordinate Bonds and Company funds, all expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Subordinate Bonds, including, without limitation: (i) the Underwriter's fee and miscellaneous expenses; (ii) the fees and disbursements of Bond Counsel, the fees and disbursements of counsel to the Company and FHCC, the fees and disbursements of the Issuer, and the fees and disbursements of the Subordinate Trustee; (iii) the fees and expenses of Underwriter's counsel, including, if any, those in connection with qualification of the Subordinate Bonds for sale under any Blue Sky or other securities laws and regulations of various jurisdictions in which the Subordinate Bonds are offered and preparation of any Blue Sky survey; (iv) the fees and expenses of certified public accountants; (v) the expenses and costs for the printing and distribution of the Subordinate Bonds (including but not limited to CUSIPs and other fees and expenses required for the sale of the Subordinate Bonds by the Underwriter), the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum; (vi) the expenses and costs for photocopying the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum, the Resolution, the Subordinate Indenture, the Subordinate Documents, the Subordinate Guaranty, and all other agreements and documents contemplated hereby; and (vii) the various other expenses and costs of Closing.

(b) If the Subordinate Bonds are not issued and delivered by the Issuer to the Underwriter, as a result of the failure by the Underwriter to perform any of the Underwriter's obligations under this Purchase Agreement (other than a failure of the Underwriter to comply with its obligation set forth in Section 1 hereof, if such obligation is not otherwise excused or terminated as provided in this Purchase Agreement) or as a result of the Company failing to reach agreement with the Underwriter as to the terms and conditions of the transactions and documents contemplated hereby, the Company agrees that it shall pay all expenses set forth in this Section 7 including all reasonable fees and expenses of Underwriter's Counsel, but excluding the Underwriter's underwriting fee.

8. **Rule 15c2-12 and Related Matters.** The Underwriter and the Company agree to cooperate reasonably with each other in order to carry out and comply with certain requirements of the Rule. The Issuer shall have no obligation of any kind under the Rule.

9. **Indemnification.** The Company and FHCC agree to indemnify and hold harmless the Issuer and the Underwriter and each person, if any, who controls (as such term is defined in Section 15 of the 1933 Act) the Issuer or the Underwriter against any and all losses, claims, damages and liability (a) arising out of any statement or information in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum (other than the information provided by the Underwriter as set forth in the next paragraph) that is untrue in any material respect or the omission therefrom of any statement which should be contained therein as of the date of the delivery of the Subordinate Bonds for the purpose for which a limited offering memorandum is to be used or which is necessary to make the statements and information therein not misleading in any material respect; and (b) to the extent of the aggregate amount paid in settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or omission if such settlement is effected with the written consent of the Company. In case any claim shall be made or action brought against the Underwriter or the Issuer or any controlling person (as aforesaid) based upon the Limited Offering Memorandum, in respect of which indemnity may be sought against the Issuer or the Company, the person or persons seeking indemnity shall promptly notify the Company and FHCC in writing setting forth the particulars of such claim or action and the Company and FHCC shall assume the defense thereof including the retention of counsel and the payment of all reasonable expenses. The person or persons seeking indemnity or any such controlling person shall have the right to retain separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such person seeking such indemnity unless (i) the retention of such counsel has been specifically authorized by the Company or FHCC or (ii) in the reasonable judgment of the person seeking such indemnity, such separate counsel is advisable by reason of any actual or potential conflict of interest or by reason of separate defenses.

To the same extent as the foregoing indemnity from the Company and FHCC to the Issuer and the Underwriter, the Underwriter agrees to indemnify and hold harmless the Issuer, and each person, if any, who controls (as such term is defined in Section 15 of the 1933 Act) the Issuer, but only with reference to (a) the price and yield of the Subordinate Bonds stated on the inside front cover of the Limited Offering Memorandum, (b) the optional redemption dates and prices for the Subordinate Bonds, (c) the last paragraph of the cover of the Limited Offering Memorandum, (d) the information under the heading "UNDERWRITING" in the Limited Offering Memorandum, which information has been furnished by the Underwriter specifically for use in preparation thereof, and (e) allegations or determinations that the Underwriter itself has violated the agreement set forth in Section 3(d) hereof or the 1933 Act, the 1934 Act, or any applicable state blue sky law in the offer or sale of the Subordinate Bonds. In no case shall the Underwriter be responsible for any amount in excess of the underwriting fee applicable to the Subordinate Bonds purchased by it pursuant to this Purchase Agreement. In case any such claim shall be presented in writing or any action shall be brought against the Issuer with respect thereto, indemnity may be sought from the Underwriter on account of its agreement contained in this Section, the Underwriter shall have the rights and duties given to the Company in the above paragraph and the Issuer shall have the rights and duties

given by the above paragraph to the persons therein referred to as controlling persons. In no case shall the Underwriter be responsible to the Issuer, the Company or the Subordinate Guarantor for any amount in excess of the underwriting fee applicable to the Series 2025 Bonds purchased by it pursuant to this Purchase Agreement. There shall be no limitation on the extent of indemnification from the Company with respect to the Issuer. No recourse shall be had against the Underwriter for loss, damage, liability, costs or expense (whether direct, indirect or consequential) of the Company or Subordinate Guarantor arising out of or in defending, prosecuting, negotiation or responding to any inquiry, questionnaire, audit, suit, or action, or other proceeding brought or received from the Internal Revenue Service in connection with the Subordinate Bonds or otherwise relating to the tax treatment of interest on the Subordinate Bonds.

The indemnities contained herein shall survive the Closing under this Purchase Agreement and any investigation made by or on behalf of the Underwriter or any person who controls any of such parties or any matters described in or related to the transactions contemplated hereby and by the Limited Offering Memorandum, the Resolution, the Subordinate Indenture, any Subordinate Documents, and the Subordinate Guaranty.

The Company shall not be liable to indemnify any person in any settlement of any action effected without sufficient prior notice. The Company shall not be liable for any judgment if, as a result of the failure of the indemnified person to give notice of the commencement of a suit in respect of which indemnity shall be sought, the Company is not provided sufficient notice to defend such suit. Notwithstanding the provision of this Section 9 or of any other provision of this Purchase Agreement to the contrary, in the sole and exclusive discretion of the Issuer or any such controlling person of the Issuer, it is deemed desirable or necessary that the Issuer or such controlling person retain separate legal counsel in connection with any such matter, the fees and expenses of such separate legal counsel shall be included within the costs indemnified pursuant to this Section 9, and no prior approval to such separate representation and no consent by the Company to settlement or other disposition of such matter shall be required.

No recourse shall be had against the Underwriter for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of the Issuer, the Company, or FHCC arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with the Subordinate Bonds or otherwise relating to the tax treatment of interest on the Subordinate Bonds.

10. Establishment of Issue Price for Subordinate Bonds.

(a) The Underwriter agrees to assist the Issuer in establishing the issue price of the Subordinate Bonds and shall execute and deliver to the Issuer on the Closing Date an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Subordinate Bonds.

(b) The Underwriter confirms that at least 10% of each maturity of the Subordinate Bonds has been sold to the public at a single price (the “10% test”) (if different interest rates apply within a maturity, each separate CUSIP number within that maturity is evaluated separately). Schedule I attached to this Purchase Agreement sets forth the first price at which the Underwriter has sold to the public 10% of each such maturity of Subordinate Bonds.

(c) The Underwriter confirms that the Underwriter has offered the Subordinate Bonds to the public on or before the date of this Purchase Agreement (the “Sale Date”) at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Schedule I attached hereto.

(d) The Underwriter confirms that it does not have any selling group agreement and any third-party distribution agreement relating to the initial sale of the Subordinate Bonds to the public.]

(e) The Underwriter acknowledges that sales of any Subordinate Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this Section 11. Further, for purposes of this Section 11:

(i) “public” means any person other than an underwriter or a related party,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Subordinate Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Subordinate Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Subordinate Bonds to the public), and

(iii) a purchaser of any of the Subordinate Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(iv) “sale date” means the date of execution of this Purchase Agreement by all parties.

11. **Notices.** Any notice or other communication to be given to the Issuer, the Company, or FHCC under this Purchase Agreement may be given by delivering the same in writing and, except as otherwise provided, shall be delivered at, or mailed by certified or registered mail, return receipt requested, or telegraphed with such telegraph to be confirmed in writing, mailed in accordance with the preceding provisions, to the following addresses:

(a) if to the Underwriter: Colliers Securities LLC
90 South Seventh Street
Suite 4300
Minneapolis, Minnesota 55402
Attention: Head of Public Finance

with a copy to: Ballard Spahr LLP
2000 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402
Attention: Benjamin W. Johnson, Esq.

(b) if to the Company Country Manor Campus Brainerd LLC
c/o The Foundation For Health Care Continuums
520 First Street Northeast

Sartell, MN 56377
Attn: Kevin Harguth, Chief Financial Officer

with a copy to:

Wornson Goggins Zard Neisen Morris & Brever, PC
119 East Main Street
New Prague, MN 56071
Attn: Eric Brever, Esq.

(c) if to FHCC:

The Foundation For Health Care Continuums
520 First Street Northeast
Sartell, MN 56377
Attn: Kevin Harguth, Chief Financial Officer

with a copy to:

Wornson Goggins Zard Neisen Morris & Brever, PC
119 East Main Street
New Prague, MN 56071
Attn: Eric Brever, Esq.

(d) if to the Issuer:

City of Brainerd, Minnesota
501 Laurel Street,
Brainerd, MN 56401
Attn: City Administrator

12. **Benefit.** This Purchase Agreement is made solely for the benefit of the Issuer, the Company, FHCC, and the Underwriter (including its successors or assigns), and no other person, partnership, association or Company shall acquire or have any right hereunder or by virtue hereof.

13. **Approval.** The approval of the Underwriter when required hereunder or the determination of its satisfaction as to any document referred to in this Purchase Agreement shall be in writing signed by the undersigned and delivered to you.

14. **Governing Law; Counterparts; Consent to Jurisdiction.** This Purchase Agreement shall be governed by the laws of the State of Minnesota and may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

15. **Electronic Signatures.** The parties agree that the electronic signature of a party to this Purchase Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Purchase Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

In addition, the parties to this Purchase Agreement acknowledge that certain legal documents may be executed and delivered through the use of electronic documents signing programs, and as such, the execution of this Purchase Agreement by way of a digital signature of an authorized representative of the Issuer provided by DocuSign (or such other digital signature provider as specified in writing by the Issuer to the parties to this Purchase Agreement) in English, does and will constitute a valid and binding signature of the authorized representative of the Issuer.

16. **Issuer’s Lack of Participation.** The Issuer hereby states and the Company, FHCC and the Underwriter hereby acknowledges and agrees that the Issuer has not been requested to participate in the

preparation of or to review the Preliminary Official Statement or the Official Statement (other than as stated in Section 3(a)(i)), and the Issuer has not done so and will not do so and that the Issuer has made no independent investigation of the facts and statements provided therein, and the Issuer assumes (and the Company, FHCC, and the Underwriter covenants and agrees that the Issuer shall have) no liability with respect thereto, including without limitation matters relating to the accuracy, fairness, completeness, or sufficiency of the Preliminary Official Statement or the Official Statement. It is further understood and agreed that the Issuer's execution and delivery of this Purchase Agreement, and any action taken by the Issuer hereunder, or any failure or alleged failure on the part of the Issuer to abide by such terms hereof as may be applicable to the Issuer, shall not give rise to any pecuniary liability of the Issuer.

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COLLIERS SECURITIES LLC,
as Underwriter

By: _____
Craig D. Theis
Its: Senior Vice President

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC

Approved and Agreed to:

CITY OF BRAINERD, MINNESOTA, as Issuer

By: _____
Name: _____
Its: Mayor

By: _____
Name: _____
Its: City Administrator

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC (Subordinate Bonds)

Approved and Agreed to:

COUNTRY MANOR CAMPUS BRAINERD LLC,
as Company

By: _____
Name: Anthony Fenstad
Its: Chief Executive Officer

By: _____
Name: Kevin Harguth
Its: Chief Financial Officer

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care Continuums,
and Colliers Securities LLC (Subordinate Bonds)

Approved and Agreed to:

**THE FOUNDATION FOR HEALTH CARE
CONTINUUMS**, as Subordinate Guarantor

By: _____
Name: Michael P. Rosen
Its: President

By: _____
Name: Fred T. Brown
Its: Secretary

Signature page for the Purchase Agreement between the City of Brainerd, Minnesota,
Country Manor Campus Brainerd LLC, The Foundation For Health Care ContinuumS,
and Colliers Securities LLC (Subordinate Bonds)

SCHEDULE I

MATURITY SCHEDULE

\$ _____
City of Brainerd, Minnesota
Subordinate Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025B

Dated: April __, 2025

Maturity Date and Schedule of Subordinate Bonds

Serial Bonds

<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>
--	-----------------------------------	--------------------------------	--------------	--------------

Term Bonds

\$ _____ % Series 2025B Term Bond Due May 1, 20__
Price of _____ % to Yield _____ %

<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal Amount</u>
--	-------------------------

**Stated Maturity.*

\$ _____ % Series 2025B Term Bond Due May 1, 20__
Price of _____ % to Yield _____ %

<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal Amount</u>
--	-------------------------

**Stated Maturity.*

Optional Redemption

The Subordinate Bonds are subject to redemption prior to maturity upon request of the Company on any day on or after May 1, 20__, in such order of maturities as shall be selected by the Company and by lot within a maturity, at their principal amount, plus accrued interest, plus a premium (expressed as a percentage of the principal amount of the Subordinate Bonds so redeemed) set forth below:

Redemption Date	Redemption Premium
May 1, 20__ through April 30, 20__	
May 1, 20__ through April 30, 20__	
May 1, 20__ and thereafter	

Other Redemptions

The Subordinate Bonds are also subject to other redemption provisions as set forth in the Subordinate Indenture.

EXHIBIT A
FORM OF ISSUE PRICE CERTIFICATE
[To come from Bond Counsel]

EXHIBIT B

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

[To come from Bond Counsel]

EXHIBIT C

FORM OF OPINION[S] OF COMPANY AND FHCC'S COUNSEL

[To come from Company and FHCC's Counsel]

BANK QUALIFIED FEE AGREEMENT

THIS BANK QUALIFIED FEE AGREEMENT, dated as of April 1, 2025 (the “Fee Agreement”), is between the CITY OF BRAINERD, MINNESOTA, a home ruler charter city and political subdivision of the State of Minnesota, organized and existing pursuant to its charter and the Constitution and laws of the State of Minnesota (the “Issuer”), and COUNTRY MANOR CAMPUS BRAINERD LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

RECITALS

Pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), the Issuer is authorized to carry out the public purposes described in the Housing Act by providing for the issuance of revenue bonds to provide funds to finance and refinance multifamily housing developments combined with a new or existing health care facility (including independent living, assisted living, and memory care facilities).

Pursuant to Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the “Industrial Development Act”), the Issuer is authorized to issue revenue bonds to finance or refinance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of a project, defined in the Industrial Development Act to include any properties, real or personal, used or useful in connection with a revenue producing enterprise.

The Issuer is authorized to loan the proceeds of such revenue bonds pursuant to the terms of a loan agreement with any person, firm, or private corporation so that payments required thereby to be made by the contracting party are fixed to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all such revenue bonds when due.

The Borrower has proposed to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way, Brainerd, Minnesota (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a day care to be located on the Property (the “Day Care Project,” and together with the Senior Housing Project, the “Project”); and (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project.

The Borrower has requested that the Issuer issue its Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A (the “Series 2025A Bonds”), in the original aggregate principal amount of \$[Par A], and its Taxable Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025A-T (the “Series 2025A-T Bonds”), in the original aggregate principal amount of \$[Par A-T], pursuant to the terms of an Indenture of Trust, dated as of April 1, 2025 (the “Senior Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “Trustee”).

The Borrower has requested that the Issuer also issue its Subordinate Senior Housing and Healthcare Revenue Bonds (Pinecrest of Country Manor Project), Series 2025B (the “Series 2025B Bonds”), in the original aggregate principal amount of \$[Par B], pursuant to the terms of a Subordinate Indenture of Trust, dated as of April 1, 2025 (the “Subordinate Indenture”), between the Issuer and the Trustee.

The Issuer will loan the proceeds of the Series 2025A Bonds and the Series 2025A-T Bonds to the Borrower pursuant to a Loan Agreement, dated as of April 1, 2025 (the “Senior Loan Agreement”), between the Issuer and the Borrower, and the Issuer will loan the proceeds of the Series 2025B Bonds to the Borrower pursuant to a Subordinate Loan Agreement, dated as of April 1, 2025 (the “Subordinate Loan Agreement”), between the Issuer and the Borrower, and the Borrower will use the proceeds thereof to finance the costs of the Project, refinance the Prior Taxable Debt, fund required reserves, finance capitalized interest, and pay costs of issuance of the Series 2025A Bonds, the Series 2025A-T Bonds, and the Series 2025B Bonds (collectively, the “Series 2025 Bonds”).

Under Section 265 of the Code, a financial institution generally cannot deduct interest expense on tax-exempt bonds in its portfolio, but Section 265(b) of the Code provides an exception to this general rule for interest expense on qualified tax-exempt obligations (the “Bank Qualified Bonds”). In order for bonds to be Bank Qualified Bonds, the bonds must (a) not be private activity bonds (other than qualified 501(c)(3) bonds); (b) be issued by a qualified small issuer (i.e., an issuer that issues no more than \$10,000,000 of tax-exempt bonds during the calendar year); and (c) be designated as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

The Issuer anticipates issuing one or more series of general obligation bonds in calendar year 2025 in an aggregate principal amount currently estimated not to exceed \$[4,500,000] (the “General Obligation Bonds”). The Issuer may designate the General Obligation Bonds as Bank Qualified Bonds for purposes of Section 265(b)(3) of the Code if the Issuer and all other subordinate entities of the Issuer do not reasonably anticipate that they will issue more than \$10,000,000 of bonds eligible for designation as Bank Qualified Bonds in such year. If the Issuer issues the Series 2025 Bonds, then the Issuer will not be permitted to designate the General Obligation Bonds to be issued in calendar year 2025 as Bank Qualified Bonds. It is expected that the interest rate on the General Obligation Bonds will have a higher interest rate as a result of the fact that the Issuer cannot designate such bonds as Bank Qualified Bonds.

As a result of the foregoing, the Issuer and the Borrower hereby agree as follows:

Section 1. If the Issuer issues any tax-exempt general obligation bonds (including the General Obligation Bonds) in calendar year 2025 that are generally eligible for designation as Bank Qualified Bonds, such bonds will not be able to be designated as Bank Qualified Bonds under Section 265(b)(3) of the Code because the principal amount of obligations reasonably anticipated to be issued (or treated as issued) by the Issuer in calendar year 2025 will exceed the \$10,000,000 limitation of Section 265(b)(3) of the Code, as determined by Kutak Rock LLP, bond counsel to the Issuer. The Borrower shall compensate the Issuer for the costs to be incurred by the Issuer due to the unavailability of such designation for its General Obligation Bonds as a result of the agreement by the Issuer to issue the Series 2025 Bonds, as determined in accordance with Section 4 hereof.

Section 2. The Borrower shall pay to the Issuer the present value of the amount by which the interest to be payable on the General Obligation Bonds for the term of the General Obligation Bonds exceeds the interest that would have been payable on the General Obligation Bonds for the term of the General Obligation Bonds if such General Obligation Bonds could have been designated as Bank Qualified Bonds for purposes of Section 265(b)(3) of the Code (the “BQ Fee”). The present-value calculations shall be based on the assumption that the General Obligation Bonds will remain outstanding for the term of the

General Obligation Bonds (whether or not the General Obligation Bonds are subject to optional redemption and whether or not the General Obligation Bonds are ever called for optional redemption prior to their stated maturities). The BQ Fee shall be paid as follows: (a) on the date of issuance of the Series 2025 Bonds (the “Date of Issuance”), (i) \$[] from an equity contribution of the Borrower shall be deposited in the Costs of Issuance Fund created under the Senior Indenture, and (ii) \$[] from an equity contribution of the Borrower shall be deposited in the Costs of Issuance Fund created under the Subordinate Indenture, of which, the aggregate amount of \$[] will be applied by the Trustee to pay on the Date of Issuance the BQ Fee, based on the assumption that the General Obligation Bonds will be issued in the aggregate principal amount of \$[4,500,000]; and (b) upon recalculation of the BQ Fee and demand by the Issuer, as provided in Section 4 hereof, the portion of the BQ Fee based on the aggregate principal amount of General Obligation Bonds that the Issuer will have actually issued in calendar year 2025, if any. The amounts paid from equity of the Borrower under this paragraph are referred to herein as the “Original BQ Payment.” Notwithstanding the foregoing, the BQ Fee is subject to adjustment as a result of recalculation pursuant to Section 4.

Section 3. The Issuer has appointed Baker Tilly Municipal Advisors, LLC (or, in its discretion, the Issuer may appoint another qualified municipal advisor) to make the determinations and undertake the calculations required by Section 2 hereof. A copy of such written determinations and calculations shall be delivered to the Trustee and the Borrower but such determinations and calculations shall be deemed final.

Section 4. On or about [December 1], 2025, the Issuer will cause the BQ Fee payable pursuant to this Fee Agreement to be recalculated, based on the aggregate principal amount of General Obligation Bonds actually issued or to be issued by the Issuer in calendar year 2025. A copy of such recalculation shall be delivered to the Borrower. In making such recalculation, the Issuer will take into account any additional qualified 501(c)(3) bonds issued by the Issuer and all other subordinate entities of the Issuer in calendar 2025 and will allocate the BQ Fee payable pursuant to this Fee Agreement among any additional conduit borrowers on a pro rata basis. Following recalculation of the BQ Fee as provided in this Section: (a) in the event the BQ Fee payable pursuant to this Fee Agreement exceeds the amount paid by the Borrower on the Date of Issuance, the Borrower shall cause the Trustee to pay such additional amount to the Issuer from the portion of the Original BQ Payment remaining on deposit in the Costs of Issuance Funds established under the Senior Indenture and the Subordinate Indenture; or (b) in the event the BQ Fee paid by the Borrower on the Date of Issuance exceeds the amount payable pursuant to this Fee Agreement, the Issuer shall refund within ten (10) days of the notice of recalculation the amount of such difference, which amount the Issuer shall deliver to the Trustee for deposit on a pro rata basis to Construction Funds created under the Senior Indenture and the Subordinate Indenture.

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

Execution page of the Issuer to this Bank Qualified Fee Agreement.

CITY OF BRAINERD, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the Borrower to the Bank Qualified Fee Agreement.

COUNTRY MANOR CAMPUS BRAINERD LLC

By _____
Its _____

From: [Gerdts, Ellen](#)
To: chills@regionfive.org
Cc: [Lykke, Sofia E.](#); [Fiorini, Gina A.](#); [Gerdts, Ellen](#)
Subject: Submission of Multifamily Housing Program on behalf of City of Brainerd
Date: Friday, February 28, 2025 4:33:46 PM
Attachments: [Brainerd Country Manor 2025 Housing Program.doc](#)

City of Brainerd
Senior Housing and Healthcare Revenue Bonds
(Pinecrest of Country Manor Project)
Series 2025A, Taxable Series 2025A-T, and Subordinate Series 2025B

Good afternoon, Executive Director Hills,

Please find attached a housing program for a multifamily housing development (the “Housing Program”) for the above-referenced Pinecrest of Country Manor Project. This Housing Program is being submitted to your office, as the regional development commission for the City of Brainerd, Minnesota (the “City”), in accordance with Minnesota Statutes, Section 462C.04.

The City Council of the City will conduct a public hearing on the Housing Program and the issuance of conduit revenue bonds for the benefit of Country Manor Campus Brainerd LLC on March 17, 2025.

We’d appreciate receiving any comments to this Housing Program by March 17, 2025.

If you have any questions, please do not hesitate to contact Sofia Lykke or Gina Fiorini (both are cc’d).

Thank you.

Ellen Gerdts

Paralegal

Kutak Rock LLP – Minneapolis

60 South Sixth Street, Suite 3400, Minneapolis, MN 55402

ellen.gerdts@kutakrock.com

p: 612.334.5038 m: 612.203.4596 f: 612.334.5050

CITY OF BRAINERD, MINNESOTA

HOUSING PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT

PINECREST OF COUNTRY MANOR PROJECT

Section A. The Project, the City, and the Bonds. Pursuant to the Constitution and laws of the State of Minnesota (the “State”), particularly Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), cities and other political subdivisions of the State are authorized to carry out the public purposes described therein and contemplated thereby in the financing or refinancing of multifamily housing developments by issuing revenue bonds or obligations to defray, in whole or in part, the development costs of a multifamily housing development, and by entering into any agreements made in connection therewith and by pledging any such agreements as security for the payment of the principal of and interest on any such revenue bonds or obligations.

A multifamily housing development financed or refinanced under the Housing Act may consist of a multifamily housing development combined with a new or existing health care facility if: (i) the multifamily housing development is designed and intended to be used for rental occupancy; (ii) the multifamily housing development is designed and intended to be used primarily by elderly or physically handicapped persons; and (iii) nursing, medical, personal care, and other health-related, assisted-living services are available to the residents on a twenty-four (24) hour basis in the multifamily housing development.

Country Manor Campus Brainerd LLC, a Minnesota nonprofit limited liability company (the “Borrower”), the sole member of which is The Foundation For Health Care Continuums, a Tennessee nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), has requested the participation of the City of Brainerd, Minnesota (the “City”), to (i) finance all or a portion of the costs of the acquisition, construction, and equipping of an independent living, assisted living, and memory care facility to be located on an approximately 54-acre site (the “Property”) north of the Northtown housing development, east of Beaver Dam Road, across from Coles Way with an address of 9040 Country Manor Way in the City (the “Senior Housing Project”); (ii) finance all or a portion of the costs of the acquisition, construction, and equipping of a day care to be located on the Property (the “Day Care Project,” and together with the Senior Housing Project, the “Project”); (iii) refinance a taxable obligation (the “Prior Taxable Debt”) previously incurred for the acquisition or improvement of the Project; (iv) fund required reserves; (v) finance capitalized interest; and (vi) pay costs of issuance of the Bonds (as hereinafter defined) (collectively, the “2025 Project”). The Borrower will own and operate the Project.

The City is authorized and empowered, pursuant to the Housing Act to carry out the public purposes described in the Housing Act to finance and refinance, in whole or in part, the Senior Housing Project.

In accordance with the requirements of Section 462C.04 of the Housing Act, as a condition to the issuance of revenue bonds or obligations under the Housing Act to finance and refinance the Senior Housing Project, a housing program must be prepared and approved with respect to the Senior Housing Project and the revenue bonds or obligations proposed to be issued to undertake such activities. In addition, the housing program must be submitted to the regional development commissions for review and comment. In accordance with the requirements of Section 462C.04, subdivision 2 of the Housing Act, the City must (i) establish a date for a public hearing with respect to the housing program and the proposal to issue revenue bonds or obligations pursuant to the terms of the housing program; (ii) publish a

notice of a public hearing in a newspaper of general circulation in the City at least fifteen (15) days prior to the date established by the City for the public hearing; and (iii) conduct the public hearing with respect to the housing program and the proposal of the City to issue revenue bonds or obligations pursuant to the terms of the housing program and the Housing Act to finance and refinance the Senior Housing Project.

This Housing Program for a Multifamily Housing Development (the “Housing Program”) is proposed to be undertaken by the City at the request of the Borrower with respect to the Senior Housing Project in accordance with the terms of the Housing Act. The representations herein are based entirely on representations or other information provided to the City by or on behalf of the Borrower. The City has not independently investigated the accuracy of the representations of the Borrower.

The revenue bonds or obligations proposed to be issued by the City under the Housing Act (the “Senior Housing Bonds”) are expected to be issued in one or more series of tax-exempt and taxable obligations, in the aggregate estimated principal amount not to exceed \$50,000,000. The Senior Housing Bonds are expected to be issued as part of a larger financing, with the Day Care Project proposed to be financed with taxable obligations (together with the Senior Housing Bonds, the “Bonds”) under the provisions of Minnesota Statutes, Sections 469.152 through 469.1655, as amended, for a total maximum principal amount of \$50,000,000 and/or equity of the Borrower.

The City Council of the City will conduct a public hearing on or about March 17, 2025 with respect to the proposed issuance of the Bonds by the City to finance and refinance the Project. The Bonds are expected to be issued by the City in spring 2025. The proceeds derived from the sale of the Bonds are proposed to be loaned to the Borrower under a loan agreement, the proceeds of which will be applied to finance the 2025 Project. The Borrower will agree in the loan agreement to make loan repayments in amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. The estimated cost of the activities described herein with respect to the Senior Housing Project may change between the date of approval of this Housing Program and the date of issuance of the Bonds but will not exceed \$50,000,000.

In determining to undertake the financing contemplated herein, the City has considered the information available, and the City has determined that the issuance of the Senior Housing Bonds by the City and the financing and refinancing of the Senior Housing Project are in the best interests of the public health, safety, and welfare of the people of the City and the surrounding areas.

Section B. Housing Program. The City is establishing this Housing Program to assist in financing and refinancing the Senior Housing Project at a cost and upon such other terms and conditions as may be determined by the City in accordance with the Housing Act.

The Bonds will be secured by the loan repayments to be made by the Borrower under the terms of a loan agreement, and the obligation of the Borrower to make the loan repayments will be secured by a mortgage lien on the land and buildings comprising the Project. In the event the revenues and other security pledged to the payment of the loan repayments are not sufficient to pay the principal of, premium, if any, and interest on the Bonds when due, the owners of the Bonds will bear the loss.

The Bonds will not constitute a general or moral obligation of the City, the State, or any political subdivision thereof, will not be secured by the taxing powers of the City, the State, or any political subdivision thereof, will not be secured by any property of the City, the State, or any political subdivision thereof, and will not be secured by any property of the City except the interests of the City in the loan agreement. The Bonds will be a special, limited obligation of the City payable solely from the revenues of the Borrower.

Section C. Local Contributions to the Housing Program. The issuance of the Senior Housing Bonds for the Senior Housing Project is expected to allow the Borrower to finance and refinance the Senior Housing Project at a lower interest cost than is otherwise available. The Comprehensive Plan of the City will serve as the housing plan relating to the Senior Housing Project. The Program is undertaken pursuant to Housing Act and is consistent with the City's Comprehensive Plan.

Section D. Standards and Requirements Relating to the Senior Housing Project Pursuant to the Housing Program. The following standards and requirements shall apply with respect to the operation of the Senior Housing Project:

(1) Substantially all of the proceeds of the Senior Housing Bonds will be applied to the financing and refinancing of the Senior Housing Project, the financing of capitalized interest, the funding of any required reserves, and the payment of the costs of issuance of the Senior Housing Bonds. The resolution authorizing the issuance of the Senior Housing Bonds and the loan agreement pursuant to which the proceeds of the Senior Housing Bonds are to be loaned to the Borrowers will include certain covenants to be made by the City and the Borrower regarding the use of proceeds and by the Borrower regarding the character and use of the Senior Housing Project.

(2) The Borrower will covenant that they will not arbitrarily reject an application from a proposed tenant because of race, color, creed, religion, national origin, sex, marital status, or status with regard to public assistance or disability.

(3) The dwelling units of the Senior Housing Project will be occupied by, or held for occupancy by, elderly persons. As a result, no income or affordability limits apply under State law.

(4) The Senior Housing Project is intended to be a combined housing and health care project pursuant to Section 462C.05, subdivision 7 of the Housing Act.

The Borrower will enter into agreements requiring compliance throughout the term of the Bonds (or for such longer period as may be required by law) with the requirements of state law. The Senior Housing Project is consistent with the plans for housing developments for the City. The Borrower will be required to operate the Senior Housing Project in accordance with State and local anti-discrimination laws and ordinances.

Section E. Severability. The provisions of this Housing Program are severable, and if any of its provisions, sentences, clauses, or paragraphs shall be held unconstitutional, contrary to statute, exceeding the authority of the City, or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section F. Amendment. While the Senior Housing Bonds are outstanding, the City shall not amend this Housing Program to the detriment of the holders of such obligation. The City may amend this Housing Program, to the extent authorized by law and the contractual obligations of the City to the extent the City deems such amendment to be in the best interests of the City, the Senior Housing Project, and the owner of the Senior Housing Bonds.

Section G. State Ceiling. All or a portion of the Senior Housing Bonds (the "Tax-Exempt Senior Housing Bonds") shall be issued as "qualified 501(c)(3) bonds" pursuant to Section 145 of the Code, the interest on which is excludable from gross income for federal income tax purposes and which is excludable from taxable net income for individuals, estates, and trusts for State income tax purposes

(subject to certain qualifications). None of the state ceiling for private activity bonds is required to be allocated to the Tax-Exempt Senior Housing Bonds.



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Authorize HRA, on behalf of the City, to submit Small Cities Development Program (SCDP) Grant Application to Department of Employment and Economic Development (DEED)

AGENDA: Main

ACTION REQUESTED: Adopt Resolution

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER: John Schommer

ESTIMATED TIME (MIN): 5 Minutes

SUMMARY OF ISSUE: At the October 21, 2024 council meeting, Council authorized the HRA to submit a SCDP preliminary proposal to DEED to coincide with the Washington Street construction project. The HRA was advised by DEED, and Council was notified that since the City currently has an open SCDP grant, for the for the 2025 grant proposal, the City should submit a single purpose proposal for public facility - streetscape. Staff has attached the preliminary proposal that was submitted.

DEED has reviewed the application and has requested the City to submit a full application.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: The full application deadline is April 16, 2025. Several items are needed to be included with the final application. Tonight we are requesting Council to:

- Adopt resolution authorizing the local government application
- Call for a public hearing to be held at the April 7, 2025 council meeting
- Approve the Citizen Participation Plan
- Approve the Conflict of Interest Disclosure form

RECOMMENDED ACTION/MOTION:

1. Adopt resolution authorizing the local government application
2. Call for a public hearing to be held at the April 7, 2025 council meeting
3. Authorize appropriate signature on the Citizen Participation Plan
4. Authorize appropriate signatures on the Conflict of Interest Disclosure form

FINANCIAL IMPACT:

2025 Small Cities Development Program Preliminary Proposal Coversheet

Complete only one coversheet for all activities being applied for. You will need to submit a separate preliminary proposal for each activity.

Application Information

Applicant: City of Brainerd

SCDP Amount Requested: \$600,000

Amount of Other Funds: \$890,150

SCDP Program Income: \$80,449

Estimated Total Project Cost: \$1,490,150

Application Components

Please indicate if this is (choose one):

- ☒ Single Purpose Application
- ☐ Comprehensive Application

Which activities are included in this application packet (choose all that apply, and complete the individual application for each selected activity and one master budget as found on the [SCDP website](#)):

- ☐ Owner Occupied Rehab
- ☐ Single Family Rental
- ☐ Multi-Family Rental
- ☐ Mixed Use (use for buildings containing residential rental units in commercial buildings)
- ☐ Duplex Rental
- ☐ Commercial (Must be part of comprehensive application)
- ☐ Public Facility – Infrastructure
- ☐ Public Facility – Community Center
- ☒ Public Facility – Streetscape

Application Description

Briefly summarize the Preliminary Proposal. Make sure to include:

1. An overview of the target area
2. A description of the project or projects
3. Cost effectiveness, including all sources of leverage

The proposed project focuses on a specific area within the city along Highway 210 and Washington Street. This roadway has significant traffic volume and serves as an essential link for local businesses, residential neighborhoods with a majority of those being low- and moderate-income homeowners, and regional transportation. This area is part of a larger renewal and beautification plan, aligning with our Comprehensive Plan and meeting the objectives of the Small Cities Development Program.

The project involves the enhancement of streetscape elements as part of a larger multi-agency infrastructure improvement effort, which includes roadway upgrades and city infrastructure upgrades. The scope of work for this project includes reconstructing and resurfacing the road, reconstructing curbs and gutters, updating signal systems, realigning and improving access to Highway 210, upgrading city utilities beneath the road, upgrading pedestrian sidewalks and reconstruction/connection to the Cuyuna Lakes Trail, and updating the Mississippi River Bridge. We are seeking funding solely for the streetscape and aesthetic elements of this project, which includes the installation of decorative lighting to be consistent with other city locations, installation of decorative railings along sidewalks, and planting trees and flowers at select locations. These improvements aim to enhance the area's visual appeal, pedestrian safety, and accessibility while creating a cohesive urban design.

The project demonstrates cost-effectiveness by leveraging funds from multiple agencies and aligning with an existing infrastructure project to reduce duplication of efforts. Key partners in this project are the Minnesota Department of Transportation, Minnesota Department of Natural Resources, City of Baxter, and Crow Wing County.

Checklist for Preliminary Proposal

Please make sure to include the documents in the "Preliminary Proposal", applicable "Specific Projects" and "Other Documents" section with your Preliminary Proposal submission.

Preliminary Proposal Section

- A completed and signed coversheet, with a Grantee Summary Information Sheet.
- A master budget that shows all project budgets in one document.

Specific Project Section

Owner Occupied

- A complete Preliminary Proposal
- Detailed color maps of the target area and optional Plan B
- A copy of the interest survey form
 - If the interest survey was completed, include the surveys or a spreadsheet that list interested homeowners

Rental

- A complete Preliminary Proposal for each individual project type
- Detailed color maps of the target area and location of rentals
- A copy of the interest survey form
 - If the interest survey was completed, include the surveys or a spreadsheet that lists interested building owners

Commercial

- A complete Preliminary Proposal
- Detailed color maps of the proposed slum and blight area
- A copy of the interest survey form
- A list of building owners that are interested in the program

Public Facility

- A complete Preliminary Proposal for each project activity
- The Add. Budget-Public Facilities budget (the second tab of the Master Budget)
- If an income survey was complete, include the income calculation spreadsheet.
 - Copies of the survey will only be required during Full Application.

Other Documents

- Letter of commitment for leverage, if applicable

Signature Page

By signing below, the Applicant certifies to the best of their knowledge that the data and information provided in the Application is true and correct.

Signature of Authorized Official (Primary Community):

Dave Badeaux Date: 11/21/24
Name of Authorized Official: Dave Badeaux

Signature of Authorized Official (Partnering Community – if applicable):

Name of Authorized Official (Partnering Primary Community): N/A

Signature of Authorized Official (Partnering Community – if applicable):

Name of Authorized Official (Partnering Community – if applicable): N/A

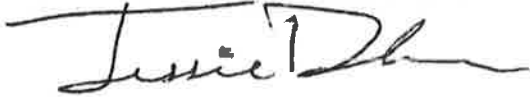
Signature of Primary Administrator:

John Schommer Date: 11/21/24
John Schommer (Nov 21, 2024 07:51 CST)
Name of Primary Administrator: John Schommer

Signature of Secondary Administrative Entity (if applicable)

Name of Secondary Administrative Entity (if applicable): N/A

Signature of Engineering firm for Public Facility Projects (if applicable)

 11/25/24
Date: _____
Name of Engineering Firm (if applicable): Jessie Dehn, City Engineer

Grantee Summary Information Sheet (GSIS)

Small Cities Development Program – State of Minnesota

Please complete all sections that apply to the proposed activities. If the same person is responsible for multiple duties, please list their name for each duty they are assigned to for this proposal. Contact information only needs to be listed once. If a category is not applicable to your grant, please indicate as not applicable.

Authorized Official and Environmental Certifying Officer Information (mayor or board chair)

All information in this section is required, unless otherwise directed

Name: Dave Badeaux

Title: Mayor

Address: 501 Laurel Street

City, State, ZIP: Brainerd, MN 56401

Phone number: 218-330-8204

Mayor/chair Email: dbadeaux@ci.brainerd.mn.us

Clerk/Treasurer name : Connie Hillman

Clerk/Treasurer Email : chillman@ci.brainerd.mn.us

Phone number: 218-828-3207

Federal ID#: 41-6005001

State ID#: 8020777

State Vendor #: 0000199019

Applicant Unique Entity Identifier (UEI)#: HRDWXDBU3M54

Applicant (proposal) Author

Name: John Schommer

Title: Rehab Director

Address: 324 East River Road

City, State, ZIP: Brainerd, MN 56401

Phone: 218-828-3432

Email: John@brainerdhra.org

Primary Implementation Agency

Name of Organization: Brainerd Housing & Redevelopment Authority

Primary Contact: John Schommer

Title: Rehab Director

Address: 324 East River Road

City, State, ZIP: Brainerd, MN 56401

Phone: 218-824-3432

Email: John@brainerdhra.org

Environmental Review Coordinator *(required for all project types)*

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: Brit Thompson

Title: Rehab Administrative Specialist

Phone: 218-824-3438

Email: Brit@brainerdhra.org

List experience with federal or state rehabilitation programs: N/A

Fair Housing/Equal Opportunity Coordinator *(required for all project types)*

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: Brit Thompson

Title: Rehab Administrative Specialist

Phone: 218-824-3438

Email: Brit@brainerdhra.org

List experience with federal or state rehabilitation programs: N/A

Rehabilitation Coordinator

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: John Schommer

Title: Rehab Director

Phone: 218-824-3432

Email: John@brainerdhra.org

List experience with federal or state rehabilitation programs: CDBG, SCDP, MN Housing RLP/ELP, CFP

Labor Standards Coordinator *(required for commercial, public facility and large rental project types)*

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: Brit Thompson

Title: Rehab Administrative Specialist

Phone: 218-824-3438

Email: Brit@brainerdhra.org

List experience with federal or state rehabilitation programs: N/A

Property Inspector

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: John Schommer

Title: Rehab Director

Phone: 218-824-3432

Email: John@brainerdhra.org

List experience with federal or state rehabilitation programs: CDBG, SCDP, MN Housing RLP/ELP, CFP

Income Verification Coordinator

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: Brit Thompson

Title: Rehab Administrative Specialist

Phone: 218-824-3438

Email: Brit@brainerdhra.org

List experience with federal or state rehabilitation programs: N/A

Rent Limit and Rental Notice Coordinator

Name of Organization: Brainerd Housing & Redevelopment Authority

Name: Brit Thompson

Title: Rehab Administrative Specialist

Phone: 218-824-3438

Email: Brit@brainerdhra.org

List experience with federal or state rehabilitation programs: N/A

Co-funding contact information

List all agencies also supporting the proposed project, both committed and pending (examples may include: MN Housing, Greater MN Housing, Public Facilities Authority, Rural Development, and local sources of if other than applicant).

Agency #1

Agency Name:

Name of primary point of contact:

Address:

Phone:

Email:

Agency #2

Agency Name:

Name of primary point of contact:

Address:

Phone:

Email:

Agency #3

Agency Name:

Name of primary point of contact:

Address:

Phone:

Email:



BRAINERD MINNESOTA

A City for all Seasons

November 25, 2024

Minnesota Department of Employment and Economic Development
Community Finance Division - Small Cities Development Program Unit
Great Northern Building
180 E 5th Street, Suite 1200
St. Paul, MN 55101

Subject: Commitment of Local Funding for Streetscape Project

On behalf of the City of Brainerd, I am pleased to confirm our commitment to supporting the proposed streetscape project along Washington Street and Highway 210. This project is a critical component of a multi-agency initiative aimed at improving infrastructure, safety, and the overall aesthetic environment in our community.

The City of Brainerd recognizes the importance of this project in advancing the goals of the Small Cities Development Program, including enhancing public facilities, benefiting low- and moderate-income residents, and contributing to economic development. To ensure the successful implementation of this project, the City of Brainerd is committed to contributing an estimated \$890,150 in local funding toward its completion.

Thank you for your consideration of our proposal. If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Jessie Dehn
City Engineer
City of Brainerd
218-828-2307

Small Cities Development Program (SCDP) 2025 Preliminary Proposal Budget Worksheet

Applicants must submit one original and one copy of the Preliminary Proposal to the Department of Employment and Economic Development (DEED) on or before 4:00 pm, Wednesday, November 27, 2024.

Faxed or emailed applications will not be accepted.

Instructions: Use the following format to provide specific information on the activity(s) proposed in your application. Lead risk assessments and clearances may be included in hard costs or administration costs (as it applies to your project). For Public Facility projects, please enter "1" in the # of units/goals column and not the community's/project area's population. Committed funds must be accompanied by a signed letter of commitment, verifying the amount.

The following are the National Objective codes to be used in the first column in the table below. See "National Objectives for Applicants" in the SCDP A- Z Guide, for requirements.

- Low to Moderate income persons/households: LMI
- Prevent or eliminate slum and blight conditions: S&B
- Alleviate urgent community development needs: URG

Small Cities Development Program Application

APPLICANT: City of Brainerd

Federal Objective/Goals/Budget Form

Activity	National Objective Code	Activity	# of units/goals	SCDP Cost Per unit	SCDP Cost/ without admin	Total SCDP Admin	SCDP Admin %	Total SCDP Costs (Grant Request)	Program Income	Total Leveraged Resources	Source of Leveraged Funds (Mark (c) if funds are committed**.)	Totals
Example	LMI	Owner-occupied Rehab	10	\$ 25,000.00	\$ 250,000.00	\$ 37,500.00	15.0%	\$ 287,500.00	\$ 25,000.00	\$ 25,000.00	USDA - Committed	\$ 337,500.00
1	LMI	Public Facility	1	\$ 580,000.00	\$ 580,000.00	\$20,000.00	3.4%	\$ 600,000.00	\$80,449.00	\$ 890,150.00	City of Brainerd (c)	\$ 1,570,599.00
2	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
3	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
4	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
5	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
6	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
7	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
8	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
9	Choose One		0	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -		\$ -
Total					\$ 580,000.00	\$ 20,000.00		\$ 600,000.00	\$ 80,449.00	\$ 890,150.00		\$ 1,570,599.00

Small Cities Development Program (SCDP) 2025 Public Facilities Supplemental Budget Worksheet

Instructions: Complete this spreadsheet for only a public facility in addition to the full budget. Enter the budget breakdown by funding source (note: costs should include federal David Bacon wage rates and, if applicable, costs related to Build America, Buy America Act requirements).

Item	SCDP	Rural Development	Public Facilities Authority	Local	Other*	Total
Water distribution lines	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Water tower/tank	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Water plant (rehab only)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wastewater ponds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wastewater lines	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wastewater plant (rehab only)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Wells	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Lift station	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service connections	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Streets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Streetscape	\$ 580,000.00	\$ -	\$ -	\$ 890,150.00	\$ -	\$ 1,470,150.00
Storm sewer	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Administration	\$ 20,000.00	\$ -	\$ -	\$ -	\$ -	\$ 20,000.00
Engineering (Planning Cost)	Ineligible	\$ -	\$ -	\$ -	\$ -	\$ -
Engineering Cost during project construction (for SCDP, no more than 15% of SCDP project cost)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other**	\$ -	\$ -		\$ -	\$ -	\$ -
Totals	\$ 600,000.00	\$ -	\$ -	\$ 890,150.00	\$ -	\$ 1,490,150.00
*Enter "Other" funding source(s):						
**Briefly describe "Other" item(s):						

Small Cities Development Program (SCDP) 2025 Preliminary Proposal

Streetscape Proposal

Submission Deadline

Applicants must submit one original and one copy of the Preliminary Proposal to the Department of Employment and Economic Development (DEED) ***on or before 4:00 pm, Wednesday, November 27, 2024.***

Faxed or emailed applications will not be accepted.

Instructions

Applicants **must review** the Small Cities Development Program (SCDP) Application Guide from the [SCDP Website](https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp) (<https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp>).

This preliminary proposal is **only** for a Streetscape Rehabilitation Proposal. Other preliminary proposals are located on the [SCDP Website](https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp).

- Funds are used for eligible items that includes, decorative streetlights, garbage cans, signage, trees, benches, American with Disabilities Act (ADA) sidewalks/bump outs, and monuments.
- Streetscapes are considered public facility projects – \$600,000 is the max request for public facility projects for one community.
- The streetscape activity must be a part of a renewal plan adopted by the city, be newly created or referenced as part of the City's Comprehensive Plan.
 - Attach the plan, evidence that the plan has been or will be adopted by the city, and a rendering of streetscape elements (include maps, photos, any relevant supporting documentation).
- Federal national objective for streetscape projects is to benefit low-and-moderate (LMI) income people on an area basis (LMA), or to prevent/eliminate slum and blight conditions.
- A LMI person resides in households with household incomes that are up to 80% of county median income. The federal national objective can be met through the U.S. Census data, or by establishing a slum and blighted area and meet the Minnesota Statutes definition of 'blighted area' ([469.002, subdivision 11](#)). The census determination can only be used for a project when the benefit area is

citywide and the federal national objective is met with census data showing that 51% or more of the people in the community are LMI. A community income survey must be conducted if city LMI is not at least 51%, in order to use the LMI federal national objective.

- The adopted slum and blight resolution is only required during full application. Slum and blight area designated through council resolution (resolution template available on [SCDP website](#)) must be designated with clear boundaries.

Streetscape Preliminary Proposal

Applicant Name: City of Brainerd

Project Description:

Provide a brief description of the activity:

The City of Brainerd is seeking funding for streetscape and aesthetic elements that include the installation of decorative street lighting, decorative railings, and planting trees and flowers in select locations along the corridor of Highway 210 and Washington Street. This streetscape activity is part of a larger \$45.8 million dollar project with key partners that include the Minnesota Department of Transportation, Minnesota Department of Natural Resources, City of Baxter, and Crow Wing County to reconstruct and improve Highway 210/Washington Street from Baxter Drive to the east end of the four-lane highway, as well as upgrade city infrastructure beginning in 2026.

If SCDP is the only source of funding, describe why other funds are not available to assist with the funding.

Funds from the City of Brainerd will be leveraged for this streetscape project.

Community questions

- What is the project area:
 - ☐ Citywide
 - ☒ Specific area within the city
 - ☐ City and residents outside of city

Need

- How was the federal national objective met through U.S. Census data or community income survey or designation of a blighted area?
 - ☒ U.S. Census Data or
 - Identify percentage LMI per census: 67.50%
 - Provide the [U.S. Census county and tract code](http://www.ffiec.gov/Geocode/default.aspx) of the proposed project.
(<http://www.ffiec.gov/Geocode/default.aspx>)

U.S. Census 3-digit county code: **035**
Tract code (XXXX.XX): **9510.00, 9511.00, 9512.00, & 9513.03**
 - ☐ Community Income Survey (A community income survey is conducted if census data is below 51%) or
 - Attach copies of the surveys and provide spreadsheet tabulation from the [SCDP website](https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp).
(<https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp>)

- Identify percentage LMI from the community survey:
- Describe how and when the surveys were conducted (door to door, mailed forms, online or other methods):

☐ Slum and Blight Designation

- Identify percentage of deteriorated buildings/qualified properties at the time the area was designated a slum and blight area:
- Provide description of the boundaries of the slum and blight designated area matching the area of the proposed activity:
- Have cost estimates considered Davis-Bacon wage rates and implementation costs?
 - ☒ Yes
 - ☐ No

Impact

- Is the streetscape work part of a street resurfacing or street reconstruction project?
 - ☒ Yes
 - ☐ No
- If so, is another agency (such as MNDOT) mandating streetscape elements as part of the street project?
 - ☒ Yes
 - ☐ No
- Is MNDOT funding part of this project?
 - ☒ Yes
 - If yes, attach MNDOT timeline. Describe other source of funding.
 - **MNDOT Timeline:**
 - **Study: 2020–2022**
 - **Develop project layout: 2021–2022**
 - **Obtain city approval: 2022**
 - **Prepare design and engineer plans: 2023–2025**
 - **Work segments and traffic plans: 2024–2025**
 - **Construct: 2026–2027**
 - ☐ No
- Do plans conform to any necessary ADA standards?

- ☒ Yes
- ☐ No

- What is the applicant's plan to reach underserved groups in the community?

Our plan to reach underserved groups in the community includes hosting public meetings in accessible locations, utilizing social media outreach, and partnering with local community organizations.

Cost Effectiveness

- How will the maintenance costs of the streetscape be financed?

Brainerd Public Utilities is donating the cost of re-lamping and routine maintenance services for street lighting, as part of contributions from Brainerd Public Utilities to the City of Brainerd as set forth in our agreement. Other maintenance costs will be financed by the City of Brainerd.

- Will property owners be assessed for any local portion of the streetscape project?

- ☐ Yes
- ☒ No

- How many property owners will be assessed?

N/A

- Provide an estimate of the average assessment for an impact property owner:

N/A

Project timeline for project completion

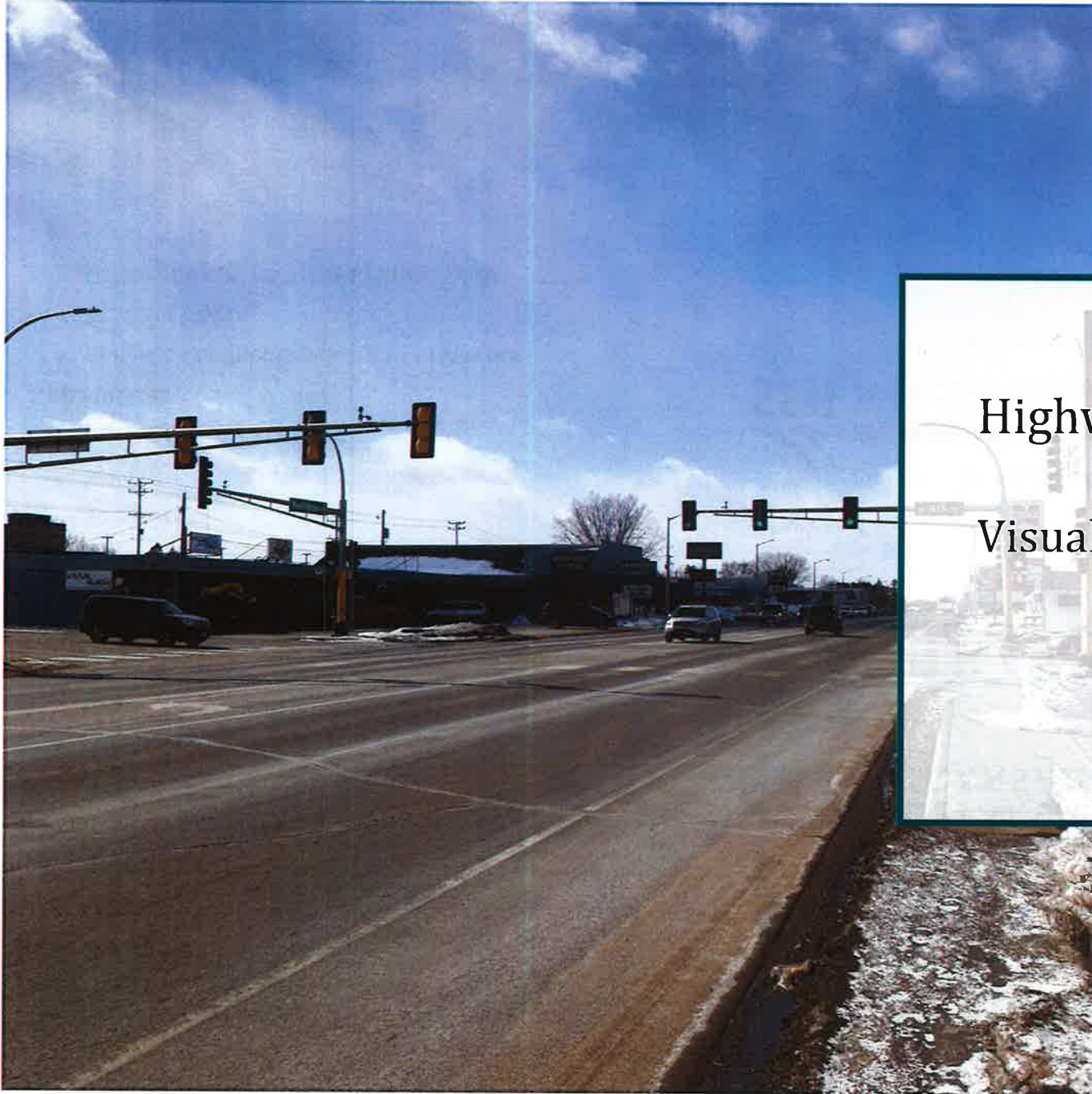
Enter the information as applicable below. All dates should be entered with the month and year each line is proposed to be completed.

- Date all engineering work completed: **08/2025**
- All necessary permits obtained: **08/2025**
- Completion of SCDP Environmental Review: **09/2025**
- Bid process conducted: **09/2025**
- Award construction contract: **10/2025**
- Facility operational: **10/2027**
- All construction (including turf restoration) complete: **11/2027**

Cost itemization

Please provide a detailed list of items proposed by Unit and Quantity, the corresponding Total Unit Cost estimate, and funding source of each item included in the streetscape project (add additional lines as necessary):

Unit and Quantity	Total Unit Cost	Funding Source
Decorative Lighting – 100 Units	\$1,400,000	City of Brainerd
Decorative Metal Railings – 160 Units	\$28,000	City of Brainerd
Deciduous Trees 2.5" – 43 Units	\$38,700	City of Brainerd
Deciduous Shrubs – 98 Units	\$10,290	City of Brainerd
Perennials – 300 Units	\$10,500	City of Brainerd
Seed Mixtures – 53.2 Units	\$2,660	City of Brainerd



Highway 210 Brainerd Visual Quality Manual

13th March 2023

Table of Contents

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- Purpose
- Project Overview
- Public Engagement

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- Street Trees
- Seed Mix

Preliminary Cost Estimate

Appendices

- A: Public Comments Related to Aesthetics
- B: Street Layout
- C: City of Brainerd Street Lighting Policy

Prepared For

- Minnesota Department of Transportation
- City of Brainerd



BRAINERD
MINNESOTA

Prepared By



Chris Hiniker, Project Manager

Karl Weissenborn, PLA, Senior Landscape Architect

Virginia Torzewski, Graduate Landscape Architect

Short Elliott Hendrickson
3535 Vadnais Center Drive
St. Paul, MN 55110
651.490.2000

Introduction

Purpose

The purpose of this Visual Quality Manual (VQM) is to establish visual quality requirements for the Brainerd TH 210 Highway Reconstruction project. The primary purpose of the VQM is to provide aesthetic design guidelines for the bridge, landscape, and site features along the corridor. The components of the planned project are: construction and rehabilitation of the roadway including roundabouts, design features, landscape elements, and other supporting elements as described in more detail throughout this document.

This VQM is written as guidance for professionals engaged in final project design and construction, and as a reference document for all project managers and stakeholders.

The VQM serves two main purposes:

- Provides background on the project area's features, context, and visual quality goals.
- Identifies the minimum design requirements and guidance for the project associated with visual quality goals, including guidance on how to proceed through final design and construction.

Therefore, this VQM contains criteria and objectives that will be used to determine compliance with Project requirements as the process moves into final design and construction.



Introduction

Project Overview

In 2026 or beyond, upgrades will be made on Highway 210/ Washington Street between Baxter Drive and Pine Shores Road. These upgrades will include roadway improvements for safety and traffic flow.

An important part of the process is determining the aesthetic elements to incorporate into the project plans. MnDOT established the Visual Quality Committee comprised of City elected officials, City staff, MnDOT staff, and SEH staff. The committee met in April and May 2022 to discuss aesthetic improvement options and determine the preferred elements to be included with the roadway improvement project.

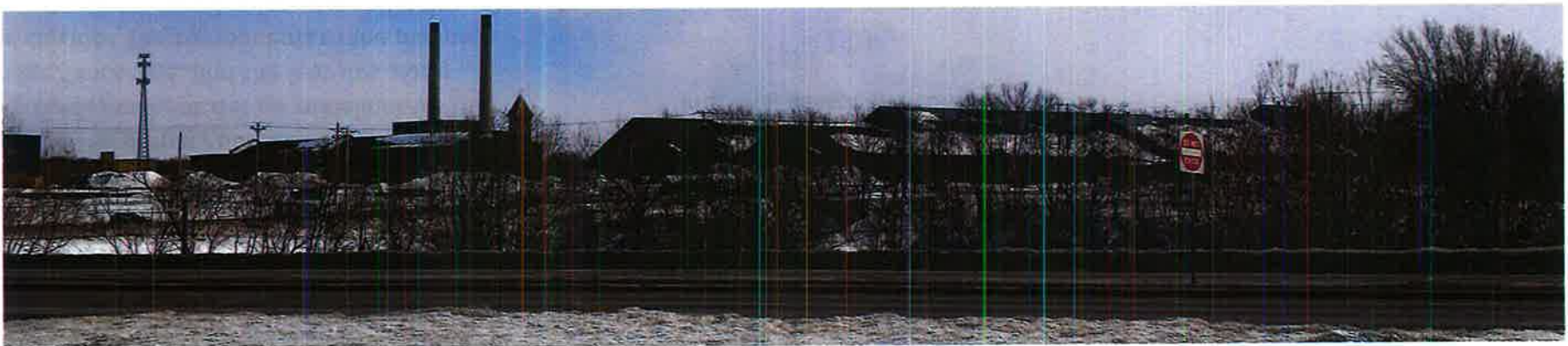
Through the course of the two meetings, the committee defined an overall approach including these preferred aesthetic elements:

- Decorative lighting consistent with lighting in other City locations, e.g., College Drive
- Decorative railing along the back edge of sidewalks in certain conditions
- Trees/ vegetation at select locations (east end and roundabouts)

Public Engagement

The aesthetic information was presented at the August 31st public Open House as well as on the project website. Feedback specific to the visual quality plans was collected both from the comments submitted at the Open House as well as on-line during the three week public review period. These comments are included in Appendix A.

In summary, the primary issues related to visibility concerns associated landscaping and having sidewalks directly back of curb. In response, any landscaping would be placed to avoid major visibility/ sight-line issues. Also, the proposed back of curb sidewalk, as opposed to including boulevard space between the curb and sidewalk, is required because of the very constrained right of way.



Design Features

Decorative Lighting

Pedestrian scale lighting will be implemented throughout the corridor and will match the existing pedestrian scale lighting found in the City, in compliance to the City Street Lighting Policy.



Proposed lighting fixture.

Decorative Railing

In certain areas along the corridor, decorative railing will be installed along the back edge of sidewalks which are adjacent to parking lots wherein the front ends of vehicles overhang the sidewalk. Box-beam railing will also be used on the river bridge parapet.



Parking lot fence.



Concrete barrier between sidewalk and traffic lanes on river bridge parapet.

Landscaping

Planting Palette

Plants make cities and highway corridors more enjoyable places by enhancing visual appearance and the relationship with the surrounding community landscape.

Following the completion of the Brainerd 210 roadway reconstruction, a separate landscape contract for plant material and installation with a 2-year warranty for plant establishment will be designed and bid. Landscaping will occur primarily on the East end of the corridor within the newly established roundabouts and adjacent to the roadway where sufficient right-of-way exists. When possible, designers should promote biological diversity and a natural appearance by developing plant massing using a variety of plant species, especially Minnesota natives.

Plant palettes shown are only suggestive of final design. The final design layout of plant materials within the roundabouts shall be responsive to several key factors including: available soil volume and condition, salt tolerance, seasonal characteristics to ensure a durable, attractive, functional landscape is developed. The use of boulders or decorative rocks is not permitted within the roundabout planting area. Of special importance is the height of plantings and visibility in and around the roundabouts for traffic viewsheds and safety.

Roundabout Plantings



Perennials
Daylily



Beebalm



Coneflower



Ornamental Grasses
Big Bluestem



Prairie Dropseed



Little Bluestem



Shrubs
Juniper



Sumac



Dwarf Bush Honeysuckle

Landscaping

Street Trees

Trees will be planted a minimum of seven feet from the back of sidewalk, and are not permitted within the boulevard.



Kentucky Coffee Tree



Linden

Seed Mix

MnDOT Native Construction Seed Mixture number 32-241



Buckeye



Hackberry



Red Maple



Showy Mountain Ash



Serviceberry



Ironwood

Preliminary Cost Estimate

TH 210 Brainerd Preliminary Cost Estimate - Aesthetics

3.13.23 update

Statement of Estimated Quantities - Decorative Railing & Pedestrian Lighting

Item No.	Description	Units	Estimated Quantity	Total	Average bid 2021 prices	Remarks
2402.503	ORNAMENTAL METAL RAILING	LF	160	\$28,000.00	\$175.00	
2545.502	LIGHTING UNIT TYPE SPECIAL	Each	100	\$1,400,000.00	\$14,000.00	Difference (overage above standard roadway light unit). Mixed w/ roadway lighting, using City of Brainerd typ. ornamental (College Rd. typ). Assume 4 ornamental lights/block for 25 total blocks.
Total:				\$1,428,000.00		

Statement of Estimated Quantities - Vegetation and Plant Materials

Item No.	Description	Units	Estimated Quantity	Total	Average bid 2021 prices	Remarks
2571.524	DECIDUOUS TREE 2.5" CAL B&B	Tree	43	\$38,700.00	\$900.00	
2571.525	DECIDUOUS SHRUB NO 5 CONT	Shrub	98	\$10,290.00	\$105.00	49 per RAB
2571.527	PERENNIAL NO 1 COUNT	Plant	300	\$10,500.00	\$35.00	150 per RAB
2575.508	SEED MIXTURE 32-241 (NATIVE CONSTRUCTION)	LB	53.2	\$2,660.00	\$50.00	64,688 SQ FT = 1.4 ACRES (38 LB/ACRE)
Total:				\$62,150.00		

Total Project Cost: \$1,490,150.00

CITY OF BRAINERD STREET LIGHTING POLICY

I. OVERVIEW

The City intends that this street lighting policy promote the safe travel of City streets in a manner both fair and affordable to the City and its residents. Street lighting promotes pedestrian and traffic safety and to that extent the City shall approve street lighting where warranted by such concerns. Lighting requests shall come either by recommendation of the City Engineer/Public Works Director, the Brainerd Public Utilities Superintendent, or by property owners.

II. STREET LIGHTING STANDARDS

A. GENERAL STANDARDS

1. The developer shall pay the full capital costs of every lighting unit to be installed. This includes poles, luminaires, conduit, underground wiring, lighting controllers and all incidental work. The City shall pay operation and maintenance for the lighting system once it is accepted as complete by the City and Brainerd Public Utilities.
2. Fixtures shall be specified and installed in a manner that directs approximately 80% of the light towards the street side and approximately 20% of the light back towards the sidewalk or right-of-way. Little to no light shall be thrown upward.
3. Color temperature for the lighting fixture shall be set at 3,000 Kelvin (K).
4. For residential standard, the standard pole height should be 15 feet. For the commercial standard, the standard pole height should be 25 feet. Variance from this standard may be approved based on grade, obstruction, or other consideration. Variance from this standard shall be approved by the City and Brainerd Public Utilities.

PLAN APPROVAL -All lighting plans are submitted to the City and Brainerd Public Utilities for review with the approval of street lighting plans as determined by Brainerd Public Utilities Commission's Superintendent and the City Engineer/Public Works Director.

B. NEW SUBDIVISIONS

1. Residential streets

Lighting units shall be placed at intersections, with a minimum of 380 feet between lighting units where intersections are more than 760 feet apart, and at the ends of cul-de-sacs where the distance from the end of the cul-de-sac to the street intersection is greater than 350 feet. Developers shall also install lighting units to City Standards at the intersections of residential streets with collector streets.

Lighting units shall comply with the Residential Standard pole and fixture. The Residential Standard pole and fixture details can be found in Appendix A.

2. *Arterial and Collector Streets in Residential Areas*

Lighting units shall be placed at intersections and spaced a minimum of 190 feet between lighting units where intersections are more than 380 feet apart, with lighting typically alternating from one side to the other depending on the width of the street.

Lighting units shall comply with the Residential Standard pole and fixture. The Residential Standard pole and fixture details can be found in Appendix A.

3. *Industrial Areas*

Lighting units shall be placed at intersections and spaced no more than 450 feet between lighting units where intersections are more than 900 feet apart.

Lighting units shall comply with the Commercial Standard pole and fixture. The Commercial Standard pole and fixture details can be found in Appendix B.

4. *Commercial Areas*

Lighting units shall be placed at intersections and spaced a minimum of 190 feet between lighting units where intersections are more than 380 feet apart, with lighting units alternating from one side to the other depending on the width of the street.

Corridors that have been specifically designated as “Commercial Corridors” are as follows:

- TH 210/Washington Street from Baxter Drive to 10th Avenue NE
- College Drive from Highland Scenic Drive to Quince Street
- Oak Street from S. 6th Street to TH 25/TH 18
- Mill Avenue from TH 210 to Mississippi River Bridge
- S. 6th Street from Buffalo Hills Lane/Industrial Park Road to TH 210

Poles shall not be installed with the ability to hang banners or with outlets for power access outside of the Special Lighting Districts, as described in II.B.6.

Lighting units shall comply with the Commercial Standard pole and fixture. The Commercial Standard pole and fixture details can be found in Appendix B.

5. *Pedestrian Ways and Trails*

Walkway and trail lighting units, when approved by the City, shall be placed along pedestrian trails and walkways and at intersections with spacing to be determined on a design basis. Lighting unit orientation will be optimized to provide light primarily to the pedestrian way.

Lighting units shall comply with the Residential Standard pole and fixture.

The Residential Standard pole and fixture details can be found in Appendix A.

6. *Special Lighting Districts*

Special lighting districts can be established only when approved by the City Council and Utilities Commission (i.e., Downtown Central Business District).

Details and standards shall be determined on a project-by-project basis by the City Council and Utilities Commission.

C. EXISTING SUBDIVISIONS

Where traffic safety clearly warrants, a lighting unit may be placed upon the recommendation of the City Engineer's office. The basis of such warrants shall be a minimum average daily traffic of 2000 vehicles or a layout such that, in the City Engineer/Public Works Director's estimation, significant improvement in safety might be obtained by the placement of a lighting unit. Since the benefit of such installations extends to the City as a whole, these will be done at City expense.

The City Council, at its discretion, may approve new lighting on roadways outside of warrant analysis or upon reconstruction of existing light systems during roadway reconditioning or reconstruction projects.

When property owners request additional lighting for the neighborhoods, they must do so by petition - signed by 60% of the property owners affected by the proposed light. The affected area shall be 380 linear feet on either side of the proposed light, on both sides of the street. The placement of the proposed lighting unit shall be specified in the petition. Petitioners shall approach the City, prior to circulating their petition, to obtain direction as to where streetlights are warranted for their neighborhoods. Lighting unit shall be approved if they meet the criteria for street lighting standards.

If approved, each lighting unit shall be paid for by the affected residents. Payment shall be made prior to the installation of the lighting unit and shall include the cost of poles, fixtures, conduit, underground wiring, and all incidental work. The method of payment shall be as directed by the City Finance Department.

The City shall assume operation and maintenance costs for a light from the time it is energized by the utility and as per City/Brainerd Public agreements.

In existing developments, new lighting units shall comply with the Residential Standard pole and fixture. The Residential Standard pole and fixture details can be found in Appendix A.

D. COUNTY HIGHWAYS

1. Lighting units shall be placed in intersections when the street light warrants,

as established by Crow Wing County Highway Department, have been met. If warrants are met, per County policy, the County and City divide the total cost of street lighting systems based on the jurisdiction of legs contributing to the intersection (i.e. two legs of County Road and 2 legs of City Street, costs would be split 50/50, etc.)

2. Additional lighting units may be placed and spaced a minimum of 190 feet between lighting units where intersections are more than 380 feet apart with lighting typically alternating from one side to the other depending on the width of the street. The city is responsible for the entire cost of constructing street lighting systems that do not meet County warrants.
3. Lighting units at intersections may be approved by City Council if warrants are not met, per Crow Wing County and the City Engineer/Public Works Director, if property owners petition the City and pay for the up-front capital cost for light installation.
4. The city is responsible for the cost difference between installing standard lighting and aesthetically enhanced street lighting systems.
5. Costs of on-going operation and maintenance are typically handled through a cost share agreement negotiated between the City and County.

III. FUNDING OF COSTS

A. INITIAL INSTALLATION OF LIGHTING

1. New Subdivisions

Residential, commercial, and industrial developers will pay for the street lighting system and enter into an agreement with Brainerd Public Utilities.

2. Existing Subdivisions

New lighting units would be paid for by benefitting properties through upfront payments to the City. The city will reimburse Brainerd Public Utilities Commission for installation of lighting units.

3. Collector/Arterial Streets

New lighting units would be considered a benefit to the Community as a whole and paid by the City from the Capital Improvement Fund or other funds as designated by City Council.

4. Industrial Areas

New lighting units would be considered a benefit to the Community as a whole and paid by the City from the Capital Improvement Fund or other funds as designated by City Council.

5. County Roads

New lighting units not meeting County warrants, but meeting City warrants, and if approved by City Council, would be considered a benefit to the Community as a whole and paid by the City from the Capital Improvement Fund or other funds as designated by City Council.

B. REPLACEMENT OF FIXTURES

1. The replacement of luminaires, poles, wiring, or conduit is a maintenance cost to Brainerd Public Utilities.

C. OPERATING COSTS

1. The cost of power for street lighting is provided by the City of Brainerd to Brainerd Public Utilities.

D. MAINTENANCE COSTS

- I. Brainerd Public Utilities donates the cost of re-lamping and routine maintenance services for street lighting as provided by Brainerd Public Utilities, as part of contributions from Brainerd Public Utilities to the City as agreed upon.

RESOLUTION

XX:25

RESOLUTION AUTHORIZING LOCAL GOVERNMENT APPLICATION

Applicant Name: City of Brainerd

WHEREAS the City of Brainerd act as the legal sponsor for the project contained in the Application to be submitted on or before April 16, 2025 and that the Mayor and City Administrator are hereby authorized to apply to the Department of Employment and Economic Development for funding of this project on behalf of the City of Brainerd.

WHEREAS the City of Brainerd has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

WHEREAS the City of Brainerd has not violated any Federal, State or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

WHEREAS that upon approval of its application by the State, the City of Brainerd may enter into an agreement with the State of Minnesota for the approved project, and that the City of Brainerd certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

NOW, THEREFORE BE IT RESOLVED that the Mayor and City Administrator, or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the Applicant.

I CERTIFY THAT the above resolution was adopted by the Brainerd City Council of the City of Brainerd on March 17, 2025.

Adopted this ___ day of _____ 2025

MIKE O'DAY
President of the Council

Approved this ___ day of _____ 2025

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

Citizen Participation Plan

Pursuant to Section 104(a)(3) of the Housing and Community Development Act of 1974, as amended, this Citizen Participation Plan is hereby adopted to ensure that the citizens of Brainerd (hereinafter referred to as the Applicant), particularly persons of low and moderate income residing in slum and blight areas and in areas in which CDBG funds are proposed to be used, are encouraged to participate in the planning and implementation of CDBG-funded activities.

Public Hearing

A public hearing or public hearings will be the primary means of obtaining citizen views and responding to proposals and questions related to community development and housing needs, proposed CDBG activities and past CDBG performance.

Prior to submitting a CDBG application to the State of Minnesota, the Applicant will need to conduct at least one public hearing to identify community development and housing needs, including the needs of very low and low income persons, as well as other needs in the community that might be addressed through the CDBG program. At the hearing, the Applicant must also, at minimum, review the proposed CDBG activities, their benefiting location(s), overall cost and proposed financing, and the implementation schedule. In addition, the past performance of the Applicant in carrying out CDBG responsibilities should be reviewed. Compliance with historic requirements of the CDBG program must be discussed, including whether there are/may be any historic or potentially historic buildings in the target area, and how the Applicant intends to address compliance with federal regulations governing the "Protection of Historic Properties."

Formal notice of the public hearing must be provided, which follows the posting/publication requirement(s) of the Applicant. A public notice will also be posted in places frequented by the public, especially low and moderate income persons benefiting from or affected by proposed CDBG activities. As circumstances warrant and as the Applicant determine necessary or appropriate, participation may additionally be specifically solicited from persons of low and moderate income, those benefiting from or affected by CDBG activities and/or representatives of such persons. Hearings will be held at times and in locations convenient to potential and actual beneficiaries and with accommodation for the handicapped. In case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate, arrangements will be made to have an interpreter present. Citizens must be provided the opportunity to comment upon the original Citizen Participation Plan and on substantial amendments to it, or to the activities for which CDBG funds will be used.

Public Information and Records

Information and records regarding the proposed and past use of CDBG funds will be available at Brainerd City Hall during regular office hours. The public will be so informed of this by public notice. Special communication aids can be made available to persons upon request.

Written Comments and Response

The Applicant will respond to written complaints and grievances, in writing, in a timely manner. When at all possible, such written responses shall be made within fifteen (15) working days.

Applicant

Signature of Chief Elected Official of Applicant

Date

NOTE: EACH JURISDICTION PARTICIPATING IN A JOINT APPLICATION IS REQUIRED TO FOLLOW CITIZEN PARTICIPATION REQUIREMENTS. A SINGLE PLAN CAN BE USED FOR A MULTI-JURISDICTIONAL APPLICATION, BUT CITIZENS FROM ALL JURISDICTIONS MUST BE GIVEN AN OPPORTUNITY TO PARTICIPATE.

Instructions: Please return your completed form as part of the Response submittal.

Conflict of Interest Disclosure Form

This form gives applicants and grantees an opportunity to disclose any actual or potential conflicts of interest that may exist when receiving a grant. It is the applicant/grantee's obligation to be familiar with the Office of Grants Management (OGM) [Policy 08-01: Grants Conflict of Interest](#) (Current Policies tab) and to disclose any conflicts of interest accordingly.

All grant applicants must complete and sign a conflict of interest disclosure form.

☒ I or my grant organization do NOT have an ACTUAL or POTENTIAL conflict of interest.

If at any time after submission of this form, I or my grant organization discover any conflict of interest(s), I or my grant organization will disclose that conflict immediately to the appropriate agency or grant program personnel.

☐ I or my grant organization have an ACTUAL or POTENTIAL conflict of interest. (*Please describe below*):

If at any time after submission of this form, I or my grant organization discover any additional conflict of interest(s), I or my grant organization will disclose that conflict immediately to the appropriate agency or grant program personnel.

Printed name: Dave Badeaux

Signature:

Organization: City of Brainerd

Date: 3/17/2025



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Authorize Development Opportunity Letters

AGENDA: Main

ACTION REQUESTED: Direction Requested

SUBMITTED BY: James Kramvik, Community
Development Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community
Development Director

ESTIMATED TIME (MIN): 5 min

SUMMARY OF ISSUE:

Staff have extensively researched underdeveloped and underutilized rental properties in the City of Brainerd. The Zoning Code, passed in 2022, allows for greater density in residential zoned neighborhoods. This was achieved by expanding opportunities for multifamily housing in most zoning districts, eliminating a garage requirement, creating lot size maximums, and allowing accessory dwelling units on a property. The code changes have been covered by the media, but individual property owners may not be aware of the possibilities for their property.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

Staff propose sending out a development opportunity letter to rental property owners, along with their rental renewal letter that they will receive in April. In addition, staff will attend the landlord meeting to update the group on changes to the Code.

RECOMMENDED ACTION/MOTION:

Authorize staff to send the attached letter to rental property owners.

FINANCIAL IMPACT: N/A

[Date]

[Mailing Address]

[Mailing Address]

[Mailing Address]

RE: [Property Address]

PID Number: [Number]

Dear [Property Owner],

The City of Brainerd has made significant changes to the Zoning Code in the last three years. A major priority of the new Zoning Code is to increase housing density in the City. This was achieved by expanding opportunities for multi-family housing in most zoning districts, eliminating garage requirements when constructing new units, and allowing accessory dwelling units on properties with a primary structure.

The Community Development Department has recently conducted an extensive review of underdeveloped properties in the City and your property listed above may have an opportunity for additional housing units. Potential development opportunities for your property may include:

- 1) Increasing in the number of housing units
- 2) Splitting your lot for the construction of a new dwelling unit
- 3) Adding an accessory dwelling unit (650 sqft or less) to an existing property

If you are interested in exploring the development opportunities for your property, please feel free to contact me at 218-454-3408 with any questions you may have.

Respectfully,



James L. Kramvik

Community Development Director



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Adopt Resolution - Deny Zoning Change and Text Amendment Request for Paradigm Auto

AGENDA: Main

ACTION REQUESTED: Adopt Resolution

SUBMITTED BY: James Kramvik, Community Development Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community Development Director

ESTIMATED TIME (MIN): 5 min

SUMMARY OF ISSUE:

Tri Axis, LLC applied for a rezoning and text amendment to allow for the expansion of a U-Haul rental business at 310 W Laurel Street (PID 41040742 and 41040743).

At the March 3rd, 2025, City Council meeting, a motion was approved denying the zoning change and text amendment request. City Council further directed staff to enforce the City Code against ongoing violations occurring at 310 W Laurel Street.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

Staff have drafted a resolution denying the request and stating the findings provided by City Council at the March 3rd Meeting. The resolution was reviewed by the City Attorney. In addition, staff have initiated the violation process against 310 W Laurel Street as defined by Section 320 of the City Code.

RECOMMENDED ACTION/MOTION:

Staff recommends approval of the attached resolution.

FINANCIAL IMPACT: N/A

RESOLUTION
Xx:25

RESOLUTION DENYING REZONING AND ZONING TEXT AMENDMENT

WHEREAS, Tri Axis, LLC applied for a rezoning and text amendment to allow for the expansion of a U-Haul rental business at 310 W Laurel Street (PID 41040742 and 41040743); and

WHEREAS, the property is zoned TC – Town Center; and

WHEREAS, adjacent zoning is TC – Town Center; and

WHEREAS, the property was re-zoned in 2016 to accommodate outside services, sales, and equipment rental accessory to the principal use and limited the outside services area to fifteen (15) percent of the gross floor area of the principal building. The building is approximately 7,600 sq. ft., which would allow 1,140 sqft (15%) of the outside area to be devoted to the U-Haul business; and

WHEREAS, Zoning Code section 515-5-6.B.11.a-d states “The City Council and the Planning Commission shall consider possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors: a. The proposed action’s consistency with the specific policies and provisions of the official City Comprehensive Plan; b. The proposed use’s compatibility with present and future land uses of the area; c. The proposed use’s effect upon the area in which it is proposed; d. Traffic generation of the proposed use in relation to capabilities of streets serving the property”; and

WHEREAS, at the March 3rd, 2025, City Council meeting, a motion was approved denying the zoning change and text amendment request.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BRAINERD, MINNESOTA:

1. Consistent with section 515-5-6 Zoning Amendments, Map or Text, the Council approves the following findings:
 - a. The property is not directly adjacent to other properties zoned (ME) Makers and Employment District.
 - i. Adjacent properties are zoned (TC) Town Center District.*
 - b. Expansive parking for a U-Haul rental business is not consistent with other surrounding uses.
 - i. Surrounding uses include multi-family residential and office business.*
 - c. The property is currently in violation of Zoning Code Section 515-3-29 Outdoor Service, Sale, and Rental which require the following:

- i. Outside sales areas are fenced and screened from view of neighboring properties and any public rights-of-way.
 1. *U-Haul trucks and trailers are visible from West Laurel Street and Mississippi Terrace apartment units.*
- ii. Any dedicated sales area shall be hard surfaced to control dust and drainage.
 1. *Expanded U-Haul parking is located on a dirt and grass surface.*
- iii. Additional standards in Town Center (TC) and Main Street (MS) Zoning Districts: Outside services, sales, and equipment rental accessory to the principal use and limited in area to fifteen (15) percent of the gross floor area of the principal building or fifteen (15) percent of the tenant bay if it is a multiple tenant building. Outside service, sales and rental area must be located on private property and shall not intrude on the public sidewalk or boulevard.
 1. *The property owner was aware from a City of Brainerd letter dated August 17th, 2016, that the property was allowed 1,140 (15%) sq. ft. of outside area to be devoted to the U-Haul business. The allowed outside area equates to approximately 7 parking spaces that can be used for the U-Haul business.*
 2. *Staff have observed significantly more than 7 U-Hauls on the property.*

2. For the stated reasons, the application for a rezoning and text amendment to allow for a rezoning to ME Makers and Employment District and for the expansion of a U-Haul rental business at 310 W Laurel Street (PID 41040742 and 41040743) is denied.

Approved this 17th day of March, 2025.

MIKE O'DAY
Council President

Adopted this 18th day of March, 2025.

DAVE BADEAUX
MAYOR

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator



City Council Agenda Request

MEETING DATE: March 17, 2025

TITLE OF ITEM: Adopt Resolution - Receive Feasibility Report and Call for Public Hearing on Improvement - Imp 23-14 - Hawkins-Joseph-Ronald Resurfacing Project

AGENDA: Main

ACTION REQUESTED: Adopt Resolution

SUBMITTED BY: Jessie Dehn, City Engineer, Mike Habighorst, Public Works Director

DEPARTMENT: Public Works

PRESENTER: Mike Habighorst, Public Works Director

ESTIMATED TIME (MIN): 2 Minutes

SUMMARY OF ISSUE: Per the resolution adopted by the Council ordering preparation of the Feasibility Report for Improvement 23-14 - Hawkins-Joseph-Ronald Resurfacing Project, Moore Engineering has prepared a report detailing the need for the project. Some final adjustments are needed which will not be ready before the packet is sent out. Thus, the final report will be sent out to Council for review shortly. Staff is recommending that Council adopt the attached resolution that receives the report as well as calls for a public hearing to hear public testimony on the improvement.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Staff and Moore Engineering will walk through the feasibility report and respond to any questions that the City Council may have about the project at the meeting. The attached resolution calls for a public hearing on the proposed improvement to be held at the Council meeting on April 21st at 7:30 p.m. A notice of the hearing would be appropriately published and notices mailed to all property owners affected by potential assessments.

RECOMMENDED ACTION/MOTION: Staff recommends adoption of the resolution receiving the attached Feasibility Report and calling for the public hearing on the proposed improvement to be held on April 21st, 2025 at 7:30 p.m.

FINANCIAL IMPACT: N/A

R E S O L U T I O N
NO. _____

**RESOLUTION RECEIVING FEASIBILITY REPORT
CALLING HEARING ON IMPROVEMENT 23-14
HAWKINS-JOSEPH-RONALD RESURFACING PROJECT**

WHEREAS, pursuant to resolution of the Council adopted February 18, 2025, a report has been prepared by Moore Engineering with reference to the proposed Hawkins-Joseph-Ronald Resurfacing Project, to consider the making of improvements on the following streets:

Hawkins Drive from Southwest 4th Street to cul-de-sac
Joseph Street from South 6th Street to South 7th Street
Ronald Street from South 6th Street to South 7th Street
Alley between South 6th Street and South 7th Street from Paul Street to Joseph Street

by resurfacing streets, spot curb and gutter repair, adjusting storm and sanitary sewer castings, fire hydrant replacement, watermain and water service line replacement, and adjusting water valves.

WHEREAS, the report provides information regarding whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, BRAINERD, MINNESOTA:

1. The Council will consider the improvement of such streets in accordance with the report and the assessment of abutting property and properties directly served via these streets for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$XXX,XXX.
2. A Public Hearing shall be held on such proposed improvement on the 21st day of April 2025, in the Council Chambers of the City Hall at 7:30 p.m. and the City Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Adopted this 17th day of March 2025

MIKE O'DAY
President of the Council

Approved this 18th day of March 2025

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

City of Brainerd, Minnesota

Improvement 23-14 – Hawkins-Ronald-Joseph Resurfacing Project

Feasibility Report – Hawkins Drive and Alley Improvements

City of Brainerd, Minnesota

Improvement 23-14 – Hawkins-Ronald-Joseph Resurfacing Project

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota.



Cavin P. Berube

Date 3/14/2025 Reg. No. 54406

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Water System	2
Storm Sewer System	2
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IV. Probable Costs	3
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Appendix B: Preliminary Cost Estimates	
Appendix C: Preliminary Assessment Calculations	

I. General

Scope

This report investigates rehabilitation or replacement of deteriorating street sections and the replacement of water main, fire hydrants and gate valves in the City of Brainerd. The project location map for these improvements is in Appendix A.

Feasibility

Having investigated the facts relating to the construction of the proposed improvements, it is my opinion, from an engineering standpoint, that this project is feasible, cost effective, and necessary.

II. Existing Conditions

Streets

The existing street section on Hawkins Drive has deteriorated and needs a mill and overlay to extend the life of the street section. The street surfacing in the alley between Paul Street and Joseph Street, just east of South 6th Street/Minnesota Highway 371B has completely deteriorated and needs to be replaced. There are also major drainage issues within the alley, causing standing water and breakdown of the pavement. The alley has an inadequate pavement section with little or no subsurface drainage to remove water within the roadway section.

Water System

The hydrants and associated gate valves on Hawkins Drive need replacement. The pipes and valves are aging, and the hydrants are past their useful lifespan. The water main in the alley between Paul Street and Joseph Street is past its useful lifespan. The water main consists of cast iron pipe which is susceptible to ruptures and leaks. There are also portions of the water main that have water services that are not buried to the proper depth to prevent freezing as there have been multiple water service lines that have frozen in recent years.

Storm Sewer System

The storm sewer system on Hawkins Drive is in good condition and does not require any attention. The drainage and storm sewer in the alley between Paul Street and Joseph Street is lacking as the surface drainage does not drain properly and there is no storm sewer in the area

to collect the flow. Updates to the elevations and slopes in the alley are required to properly drain the area.

III. Proposed Improvements

The proposed project improvements are shown in the map included in Appendix A. The proposed project includes improvements in the following areas:

- Hawkins Drive – East of SW 4th Street to the cul de sac end
- Alley between Paul Street and Joseph Street – Just east of South 6th Street/MN Highway 371B

The proposed project consists of addressing the water main, hydrants, and gate valves in the proposed project area as well as the streets. In the Hawkins Drive area, the street will be rehabilitated while the alley will be a complete reconstruct along with adding curb and gutter and grading to improve drainage. Existing pavement on Hawkins Drive will be either milled or removed and 2" of asphalt will be paved on top of the existing aggregate base. In areas where the hydrants and valves are replaced, the street section will be replaced to match the current street section. In the alley between Paul Street and Joseph Street, the subgrade will be recompacted and prior to installing 4" of aggregate base, then 2" of asphalt wear course will be installed to finish the street section. The proposed street section will include curb and gutter and grading to properly convey storm flow to low points where it can be collected into the City's storm sewer system.

IV. Probable Costs

The City is working to address the issues within their water, drainage, and street system. Historically, the City has been proactive and financially responsible in the care and maintenance of their infrastructure. The City needs to determine whether they want to upgrade the deteriorated facilities and the deficiencies associated with the systems or continue to maintain the deteriorated systems. The alternatives described are only a portion of the options that the City is pursuing. The purpose of this report is to enable the City to make an informed and responsible decision regarding the rehabilitation or replacement of their deteriorated utility and

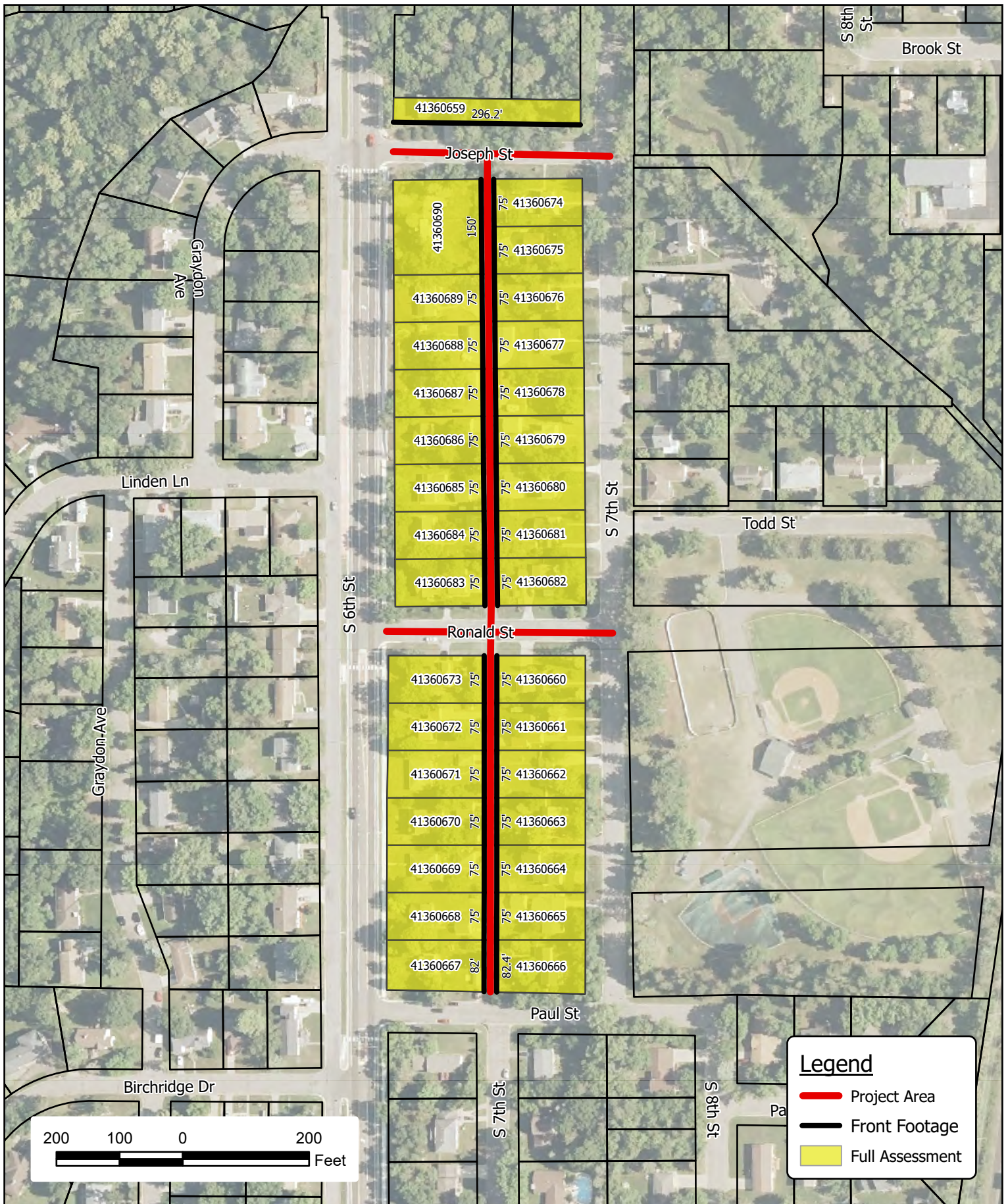
street systems. A utility project addressing various issues throughout the water, drainage, and street systems is being considered which will repair the pressing issues as described in detail in Section II of this report. Three different options were evaluated as part of this report. Those options are Do Nothing, repair the existing water, drainage and street system by a combination of open cut replacement and rehabilitation, or complete replacement of all water, drainage, and street systems in the project areas. Due to the condition of the utilities and streets, as well as the potential cost of replacement/rehabilitation vs full replacement, it is recommended that the City replace the utilities in the project area via the replacement and rehabilitation option. Overall project costs are included in Appendix B.

V. Preliminary Assessments

As discussed earlier in this report, the City has historically been proactive in the repair and replacement of their existing utility systems. Taking that into consideration, the City does not have entire utility and street systems that need to be replaced at one time. This allows for a targeted approach to repairing specific deficiencies as they present themselves. Preliminary assessment estimates have been included in Appendix C.

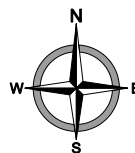
Appendix A

Preliminary Project Maps

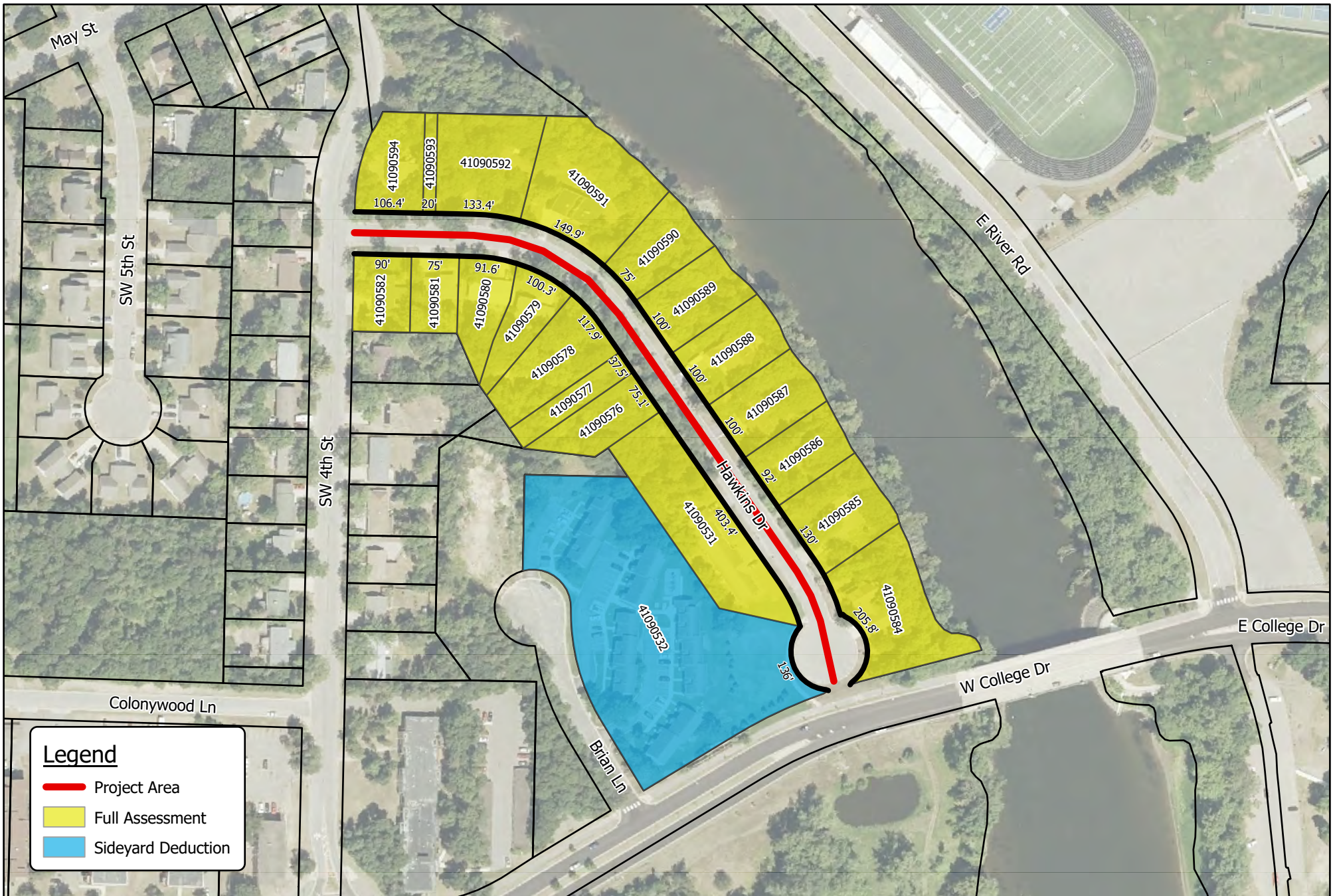


**ASSESSMENT MAP
ALLEY RESURFACING PROJECT
BRAINERD, MINNESOTA**

Created By: KMV Date Created: 03/10/25 Date Saved: 03/14/25 Date Exported: 03/14/25
Plotted By: kyle.volk Parcel Date: 02/05/25 Aerial Image: 2023 County NAIP SIDS Elevation Data: N/A
Horizontal Datum: NAD 1983 HARN Adj MN Crow Wing Feet Vertical Datum: NAVD1988
T:\BaseData\MN\County\Crow Wing\10_ArcPro\Crow_Wing_County_Map\Crow_Wing_County_Map.aprx

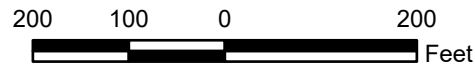
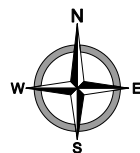


moore
engineering, inc.



**ASSESSMENT MAP
HAWKINS DRIVE RESURFACING PROJECT
BRainerd, MINNESOTA**

Created By: KMW Date Created: 03/10/25 Date Saved: 03/13/25 Date Exported: 03/14/25
 Plotted By: kyle.volk Parcel Date: 02/05/25 Aerial Image: 2023 County NAIP SIDS Elevation Data: N/A
 Horizontal Datum: NAD 1983 HARN Adj MN Crow Wing Feet Vertical Datum: NAVD1988
 T:\BaseData\MN\County\Crow Wing\10_ArcPro\Crow_Wing_County_Map\Crow_Wing_County_Map.aprx



Appendix B

Engineer's Preliminary Opinion of Probable Cost

**Hawkins Drive and Alley Improvements
Utility and Street Improvements
Brainerd, MN**

Engineer's Preliminary Opinion of Probable Cost

BID ITEM NO. & DESCRIPTION			UNIT	QUANTITY	UNIT PRICE	TOTAL
Base Bid						
1.	24200	Removal of Gate Valve	EA	15	\$500.00	\$7,500.00
2.	24200	Removal of Hydrant	EA	5	\$750.00	\$3,750.00
3.	2215.504	Full Depth Reclamation	SY	5,100	\$3.50	\$17,850.00
4.	2232.504	Mill Bituminous Surface (2.0")	SY	5,000	\$2.75	\$13,750.00
5.	2104.503	Remove Concrete Curb	LF	450	\$5.00	\$2,250.00
6.	2104.504	Remove Bituminous Driveway Pavement	SY	225	\$10.00	\$2,250.00
7.	2104.504	Remove Sidewalk	SY	25	\$25.00	\$625.00
8.	2104.504	Remove Concrete Driveway Pavement	SY	750	\$12.00	\$9,000.00
9.	2104.507	Remove Aggregate	CY	15	\$10.00	\$150.00
10.	331413	Water Main - 6"	LF	2,000	\$100.00	\$200,000.00
11.	331417	Curb Stop & Box - 1"	EA	26	\$1,000.00	\$26,000.00
12.	331417	Water Service Connection - 1"	EA	26	\$1,000.00	\$26,000.00
13.	331417	Water Service Line - 1"	LF	300	\$45.00	\$13,500.00
14.	331419	Gate Valve & Box - 6"	EA	20	\$3,750.00	\$75,000.00
15.	331419	Hydrant - 6"	EA	10	\$5,500.00	\$55,000.00
16.	330597	Trace Wire System	L SUM	1	\$5,000.00	\$5,000.00
17.	12000	Mobilization	L SUM	1	\$40,000.00	\$40,000.00
18.	15000	Storm Water Management	L SUM	1	\$10,000.00	\$10,000.00
19.	2112.604	Stabilizing Aggregate	CY	160	\$35.00	\$5,600.00
20.	2105.504	Rock Bedding	CY	160	\$40.00	\$6,400.00
21.	2211.507	Aggregate Base (Cv) Class 5	CY	650	\$32.00	\$20,800.00
22.	2531.503	Concrete Curb & Gutter Design S518	LF	1,760	\$40.00	\$70,400.00
23.	2531.503	Concrete Curb & Gutter Design B618	LF	320	\$45.00	\$14,400.00
24.	2360.509	Type Sp 9.5 Wearing Course Mix	TON	1,125	\$120.00	\$135,000.00
25.	2531.504	4" Concrete Driveway Pavement	SY	750	\$20.00	\$15,000.00
26.	2118.507	Aggregate Surfacing (Cv) Class 5	CY	15	\$40.00	\$600.00
27.	2521.518	4" Concrete Walk	SF	25	\$50.00	\$1,250.00
28.	2572.602	Tree Pruning	EA	5	\$500.00	\$2,500.00
29.	2572.602	Plant Pruning	EA	60	\$200.00	\$12,000.00
30.	2575.501	Turf Establishment	LS	1	\$7,500.00	\$7,500.00
Construction Subtotal						\$799,075.00
Contingencies						\$160,925.00
Study & Report						\$11,000.00
Design and Cost Estimating						\$30,000.00
Construction Engineering						\$30,000.00
Construction Surveying						\$9,000.00
Permits - Minnesota Department of Health						\$1,000.00
Advertising & Publishing						\$1,500.00
Legal Fees						\$2,500.00
Special Assessments (Attorney & Publishing)						\$10,000.00
Soil Borings & Geotechnical Report						\$5,000.00
TOTAL PROJECT COST						\$1,060,000.00

Appendix C

Preliminary Assessment Calculations

Hawkins Drive Properties

OBJECTID	PIN	Assessment Category	Front Footage	Sideyard Footage	Footage Assessed	Total Assessment
1	41090531	Full Assessment	403.4	N/A	403.4	\$19,604.63
2	41090532	Sideyard Deduction	136	330	136	\$6,609.39
3	41090576	Full Assessment	75.1	N/A	75.1	\$3,649.75
4	41090577	Full Assessment	37.5	N/A	37.5	\$1,822.44
5	41090578	Full Assessment	117.9	N/A	117.9	\$5,729.76
6	41090579	Full Assessment	100.3	N/A	100.3	\$4,874.43
7	41090580	Full Assessment	91.6	N/A	91.6	\$4,451.62
8	41090581	Full Assessment	75	N/A	75	\$3,644.89
9	41090582	Full Assessment	90	N/A	90	\$4,373.86
10	41090584	Full Assessment	205.8	N/A	205.8	\$10,001.57
11	41090585	Full Assessment	130	N/A	130	\$6,317.80
12	41090586	Full Assessment	92	N/A	92	\$4,471.06
13	41090587	Full Assessment	100	N/A	100	\$4,859.85
14	41090588	Full Assessment	100	N/A	100	\$4,859.85
15	41090589	Full Assessment	100	N/A	100	\$4,859.85
16	41090590	Full Assessment	75	N/A	75	\$3,644.89
17	41090591	Full Assessment	149.9	N/A	149.9	\$7,284.91
18	41090592	Full Assessment	133.4	N/A	133.4	\$6,483.04
19	41090593	Full Assessment	20	N/A	20	\$971.97
20	41090594	Full Assessment	106.4	N/A	106.4	\$5,170.88
Total Front Footage			Total Sideyard Footage	Total Assessable Footage		
Total			2339.3	330	2339.3	\$113,686.45
Preliminary Assessable Amount			\$113,686.45	\$48.60 Cost/FT		

Alley Properties						
OBJECTID	PIN	Assessment Category	Front Footage	Sideyard Footage	Footage Assessed	Total Assessment
21	41360659	Full Assessment	296.2	N/A	296.2	\$18,747.91
22	41360660	Full + Sideyard	75	140	145	\$9,177.74
23	41360661	Full Assessment	75	N/A	75	\$4,747.11
24	41360662	Full Assessment	75	N/A	75	\$4,747.11
25	41360663	Full Assessment	75	N/A	75	\$4,747.11
26	41360664	Full Assessment	75	N/A	75	\$4,747.11
27	41360665	Full Assessment	75	N/A	75	\$4,747.11
28	41360666	Full Assessment	82.4	N/A	82.4	\$5,215.49
29	41360667	Full Assessment	82	N/A	82	\$5,190.17
30	41360668	Full Assessment	75	N/A	75	\$4,747.11
31	41360669	Full Assessment	75	N/A	75	\$4,747.11
32	41360670	Full Assessment	75	N/A	75	\$4,747.11
33	41360671	Full Assessment	75	N/A	75	\$4,747.11
34	41360672	Full Assessment	75	N/A	75	\$4,747.11
35	41360673	Full + Sideyard	75	140	145	\$9,177.74
36	41360674	Full + Sideyard	75	140	145	\$9,177.74
37	41360675	Full Assessment	75	N/A	75	\$4,747.11
38	41360676	Full Assessment	75	N/A	75	\$4,747.11
39	41360677	Full Assessment	75	N/A	75	\$4,747.11
40	41360678	Full Assessment	75	N/A	75	\$4,747.11
41	41360679	Full Assessment	75	N/A	75	\$4,747.11
42	41360680	Full Assessment	75	N/A	75	\$4,747.11
43	41360681	Full Assessment	75	N/A	75	\$4,747.11
44	41360682	Full + Sideyard	75	140	70	\$4,430.63
45	41360683	Full + Sideyard	75	140	70	\$4,430.63
46	41360684	Full Assessment	75	N/A	75	\$4,747.11
47	41360685	Full Assessment	75	N/A	75	\$4,747.11

48 41360686 Full Assessment	75	N/A	75	\$4,747.11
49 41360687 Full Assessment	75	N/A	75	\$4,747.11
50 41360688 Full Assessment	75	N/A	75	\$4,747.11
51 41360689 Full Assessment	75	N/A	75	\$4,747.11
52 41360690 Full + Sideyard	150	140	220	\$13,924.85
Total Front Footage Total Sideyard Footage Total Assessable Footage				
Totals	2,710.60	840.00	2980.6	\$188,656.38
Preliminary Assessable Amount	\$188,656.38		\$63.29 Cost/FT	

March 5, 2025

RECEIVED

MAR 07 2025

**CITY OF BRAINERD
ADMINISTRATION**

The Honorable Dave Badeaux
Mayor, City of Brainerd
Brainerd Wastewater Treatment Facility
501 Laurel St
Brainerd, MN 56401

RE: Thank you for participating in the Per- and polyfluoroalkyl substances (PFAS) Memorandum of Understanding

Dear Mayor Badeaux:

I would like to extend my sincere gratitude for your community's participation in wastewater treatment PFAS efforts via the 2022 Memorandum of Understanding (MOU) with the Minnesota Pollution Control Agency (MPCA). Eighty-three Minnesota municipalities committed to this important initiative; a remarkable turnout and a reflection of your foresight! I truly appreciate the time, effort, and resources you have dedicated to helping us achieve our shared environmental goals.

Upon the collection of the final influent samples this fall, the work you committed to in the MOU is complete. Monitoring is crucial to assessing and reducing the PFAS entering your wastewater treatment facility. Your involvement in this effort has provided a greater understanding about PFAS, generally, but specifically for your facility, this data can be used to continue source identification and reduction work which will help reduce PFAS in your effluent and biosolids.

MPCA staff have sent your wastewater operator the results from the four rounds of influent sampling. Should you have any questions about the data contained in the table, please contact Stephanie Lyons at stephanie.lyons@state.mn.us.

We know, based on work in other states, that wastewater treatment facilities have been able to reduce more than 90% of the PFAS coming into their systems by using monitoring data to identify sources of PFAS. Please continue to prioritize identifying industrial discharges that are potential sources of PFAS, sampling those sources, and requiring product replacements. The MPCA has grant funds available on a first come, first served basis that can be used to support this work.

The Honorable Dave Badeaux

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March 5, 2025

Once again, thank you for your dedication. We look forward to continuing to work together as we move into the next phase of our PFAS work. Should you have any further questions or suggestions, please don't hesitate to reach out.

Sincerely, 



Dana Vanderbosch
Assistant Commissioner

DV:nl/jls

cc: Charlie Gammon, City of Brainerd (electronic)