STATE OF TENNESSEE
Hamilton County

July 1, 2015
Date (Month, Day, Year)

Hamilton County Board of Commissioners

RESOLUTION

No. 715-15

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE 1400 CHESTNUT, LLC PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, AND TO AUTHORIZE THE COUNTY MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.

WHEREAS, pursuant to Tennessee Code Annotated, Section 48-101-312(b) Hamilton County (the "County") is permitted to delegate to The Health, Educational, and Housing Facility Board of the City of Chattanooga (the "Corporation") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Corporation upon a finding by the County that such payments are deemed to be in furtherance of the Corporation's public purposes; and,

WHEREAS, 1400 Chestnut, LLC (the "Company") is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and because of the substantial economic benefits to the City and Hamilton County resulting from the Project, has asked the Corporation, the County Commission, and the City Council to approve payments in lieu of ad valorem taxes; and,

WHEREAS, the County has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Corporation's public purposes as set forth within Chapter 101 of Title 48 of the Tennessee Code Annotated;

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNTY LEGISLATIVE BODY IN SESSION ASSEMBLED:

That we do hereby find that the Project referenced above is in the best interest of the County, and that payments in lieu of ad valorem taxes derived therefrom would

be in furtherance of the Corporation's public purposes; and

That having made such a finding in this instance, we do hereby delegate to the Corporation the authority to negotiate and accept payments in lieu of ad valorem taxes from the Company; provided that commercial and/or retail space shall not be eligible for a freeze of in lieu of tax payments, and it being further noted that this delegation is for this purpose and this project only; and,

That the County Mayor is hereby authorized to enter into an Agreement for Payments In Lieu of Ad Valorem Taxes in the form attached hereto, with such changes thereto as he shall approve; and,

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

ME: 419
PAGE: 89

CERTIFICATION OF ACTION

Approved: ☑
Rejected: ☐

County Clerk

Approved: ☑
Vetoed: ☐

County Mayor

July 1, 2015

Date

Res. 715-15

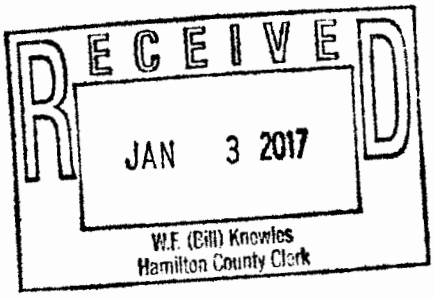
MILLER & MARTIN PLLC

MARK W. SMITH
Direct Dial 423-785-8357
Direct Fax 423-321-1527
Mark.Smith@millermartin.com

December 29, 2016

Via Hand Delivery

Rheubin M. Taylor, Esq.
County Attorney
Hamilton County, Tennessee
204 Hamilton County Courthouse
Chattanooga, Tennessee 37402



Wade A. Hinton, Esq.
City Attorney
City of Chattanooga
100 East 11th Street, Suite 200
Chattanooga, Tennessee 37402

RE: 1400 Chestnut, LLC

Dear Rheubin and Wade:

We are enclosing transcripts for the above-referenced PILOT for the City, County and Health and Ed Board files in connection with this PILOT arrangement. We have also prepared an electronic copy of this transcript, so if you would like to have an electronic copy as well please let me or my assistant, Carol Bain, know.

Otherwise, thank you for all the work that went into completing this PILOT.

With best wishes for a happy and prosperous 2017, I am

Sincerely yours,

Mark W. Smith

MWS:cjb
Enclosure
cc: Vaden F. Bales, Esq. (w/enc.)
Mr. Joseph Holt (w/enc.)

Volunteer Building Suite 1200
832 Georgia Avenue | Chattanooga, TN | 37402-2289
Office 423.756.6600 Fax 423.785.8480
millermartin.com

ATLANTA
CHARLOTTE
CHATTANOOGA
NASHVILLE

Res. 715-15

TRANSCRIPT INDEX

PILOT Agreement between
The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee
and
1400 Chestnut, LLC

RESOLUTIONS:

1. City Resolution Authorizing Sale and PILOT
2. County Resolution Authorizing Sale and PILOT
3. HEB Resolution Authorizing Taking Title and Execution of Lease

PILOT AND LEASE:

4. PILOT Agreement
5. Warranty Deed
6. Lease Agreement

OTHER DOCUMENTS:

7. Comptroller Filing
8. Brownfield Voluntary Agreement
9. Notice of Land Use Restrictions
10. PILOT Agreement Regarding Leasehold Deed of Trust Rights

RESOLUTION

No. 28256

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE 1400 CHESTNUT, LLC PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.

WHEREAS, pursuant to Tennessee Code Annotated, Section 48-101-312(b) the City of Chattanooga (the "City") is permitted to delegate to The Health, Educational, and Housing Facility Board of the City of Chattanooga (the "Board") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Board upon a finding by the City that such payments are deemed to be in furtherance of the Board's public purposes; and

WHEREAS, 1400 Chestnut, LLC (the "Company") is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and because of the substantial economic benefits to the City and Hamilton County resulting from the Project, has asked the Board, the City Council and the County Commission to approve payments in lieu of ad valorem taxes; and

WHEREAS, the Council has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Board's public purposes as set forth within Chapter 101 of Title 48 of the Tennessee Code Annotated;

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNCIL:

That we do hereby find that the Project is in the best interest of the City, and that payments in lieu of ad valorem taxes derived therefrom would be in furtherance of the Board's public purposes; and

That, having made such a finding in this instance, we do hereby delegate to the Board the authority to negotiate and accept payments in lieu of ad valorem taxes from the Company; provided that commercial and/or retail space shall not be eligible for a freeze of in lieu of tax payments, and it being further noted that this delegation is for this purpose and this project only; and

That the Mayor is hereby authorized to enter into an Agreement for Payments In Lieu of Ad Valorem Taxes in substantially the form attached hereto, with such changes thereto as he shall approve; and,

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

EXHIBIT "A"
TO AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

REAL PROPERTY

[INSERT LEGAL DESCRIPTION]

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

This Instrument Prepared By:
Phillip A. Noblett, Deputy City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered as of this ___ day of _____, 2015, by and between **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE** (the "Board"), a public corporation duly created and existing under the laws of the State of Tennessee, and **1400 CHESTNUT, LLC** (the "Company"), a [Tennessee] limited liability company.

WITNESSETH:

In consideration of the respective covenants and agreements hereinafter contained, the Board and the Company agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. The following terms when used in this Agreement, unless the context shall clearly indicate another or different meaning or intent, shall be construed as follows:

"Act" means Chapter 333 of the Public Acts of 1969, as codified in Tennessee Code Annotated Sections 48-101-301 et seq., as heretofore amended and as hereafter amended from time to time.

"Act of Bankruptcy" means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Company or the Board under any applicable bankruptcy, insolvency or similar law as now or hereafter in effect.

"Agreement" means this Lease Agreement as it now exists and as it may hereafter be amended.

"Board" means The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, a public corporation duly created and existing under the Act, and its successors and assigns.

"City" means the City of Chattanooga, Tennessee.

"County" means Hamilton County, Tennessee.

The terms "default" and "event of default" mean any occurrence or event specified in Section 10.01 hereof.

The term "pending" with respect to any proceedings commenced by an Act of Bankruptcy means that such proceedings have not been dismissed, or are subject to further appeal.

"PILOT Agreement" means the Agreement for Payments in Lieu of Ad Valorem Taxes entered into by and among the Board, the Company, the City and the County.

"Project" means the multi-family rental housing project located on the Property.

"Property" means the real and personal property described in **Exhibit "A"** attached hereto, together with additions thereto, replacements thereof and substitutions therefor.

ARTICLE II

CERTIFICATIONS

Section 2.01 Certifications by Board. The Board makes the following certifications as the basis for the undertakings on its part herein contained:

(a) The Board is a public corporation of the State of Tennessee, duly organized and existing under the provisions of the Act. The Act authorizes the Board to acquire real and personal property constituting a "Project" under the Act.

(b) The Board has found and does hereby declare that the Project constitutes "multi-family housing facilities" qualifying as a "Project" under the Act and that the acquisition of the Project and the leasing of the same to the Company will be in furtherance of the public purposes for which the Board was created.

(c) The Board has been induced to enter into this undertaking by the promise of the Company to operate a housing facility in the State of Tennessee.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Board threatened, against or affecting the Board in any court or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would materially and adversely affect the validity or enforceability of this Agreement or any agreement or instrument to which the Board is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby.

Section 2.02 Certifications by Company. The Company makes the following certifications as the basis for the undertakings on its part herein contained:

(a) The Company is a [Tennessee] limited liability company duly formed under the laws of the State of [Tennessee], is in good standing under Tennessee law, has full power and authority to enter into this Agreement and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Agreement and, when executed and delivered by the parties thereto, this Agreement will constitute the valid and binding obligation of the Company enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated herein by the Company, nor the fulfillment of or compliance with the terms and conditions of this Agreement, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of the Company or any agreement or instrument to which the Company is now a party or by which it is bound, or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement.

(c) There are no proceedings pending, or to the knowledge of the Company threatened, against or affecting the Company in any court or before any governmental authority, arbitration board or tribunal which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of the Company, or the ability of the Company to perform its obligations under this Agreement. The Company is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d) No event has occurred and no condition exists with respect to the Company that would constitute an "event of default" under this Agreement, or which, with the lapse of time or with the giving of notice, or both, would become such an "event of default."

ARTICLE III

LEASING CLAUSES; WARRANTY OF TITLE

Section 3.01 Lease of Property. The Board hereby leases to the Company, and the Company hereby leases from the Board, the Property, for the consideration set forth in Section 5.03 hereof and in accordance with the provisions of this Agreement.

Section 3.02 Title. The Board will obtain upon the acquisition thereof good and marketable title to the Property, free from all encumbrances.

Section 3.03 Quiet Enjoyment. The Board covenants and agrees that it will warrant and defend the Company in the quiet enjoyment and peaceable possession of the Property, free from all claims of all persons whatsoever, throughout the Lease Term, so long as the Company shall perform the covenants, conditions and agreements to be performed by it hereunder, or so long as the period for remedying any default in such performance shall not have expired. If the Board

shall at any time be called upon to defend the title to said property as aforesaid, it shall not be required to incur any costs or expenses in connection therewith unless indemnified to its satisfaction against all such costs and expenses.

ARTICLE IV

ACQUISITION, CONSTRUCTION AND INSTALLATION OF PROPERTY

Section 4.01 Agreement to Acquire, Construct and Install Project. The Company agrees that:

(a) It will cause title in and to the Property to be vested in the Board.

(b) It will acquire, construct and install the Project in the name of and on behalf of the Board.

(c) It will complete the acquisition, construction and equipping of the Project as promptly as practicable.

ARTICLE V

EFFECTIVE DATE; DURATION OF LEASE TERM; CONSIDERATION

Section 5.01 Effective Date of this Agreement; Duration of Lease Term. This Agreement shall become effective upon its delivery, and the leasehold estate created hereunder shall then begin, and, subject to the other provisions of this Agreement, shall expire at midnight, December 31, 2030.

Section 5.02 Delivery and Acceptance of Possession. The Board agrees to deliver to the Company sole and exclusive possession of the Project, and the Company agrees to accept possession of the Project upon such delivery.

Section 5.03 Consideration for Lease. In consideration of the lease granted hereunder the Company agrees to:

(a) Acquire, construct and install the Project as described in Section 4.01 hereof;

(b) Operate the Project as a multi-family housing facility for its own benefit and for the benefit of the citizens of the County and the City; and

(c) Make the payments required of it under the PILOT Agreement.

ARTICLE VI

MAINTENANCE: MODIFICATION: TAXES AND INSURANCE

Section 6.01 Maintenance and Modification of Property by Company. The Company agrees that throughout the term of this Agreement it will, at its own expense, keep the Property (i) in as reasonably safe condition as its operations shall permit, and (ii) in good repair and in good operating condition, normal wear and tear and obsolescence excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof.

Section 6.02 Removal of Personal Property Included in Project. The Board shall not be under any obligation to renew, repair or replace any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary personal property constituting a part of the Project. In any instance where the Company in its sole discretion determines that any items of such personal property have become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary, the Company may remove such items of personal property and (on behalf of the Board) sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Board therefor.

Section 6.03 Taxes, Other Governmental Charges and Utility Charges. The Board and the Company acknowledge that under present law the Project will be exempt from taxation in the State of Tennessee. The Company will pay, as the same become lawfully due and payable, (i) all taxes and governmental charges of any kind whatsoever upon or with respect to the Project and (ii) all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project.

The Company may, at its own expense and in its own name, in good faith contest any such taxes, assessments or other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. The Board will cooperate fully with the Company in any such contest.

Section 6.04 Maintenance of Insurance. Throughout the term of this Agreement, the Company shall keep the Property continuously insured against such risks as are customarily insured against with respect to property similar to the Property by businesses of like size and type (other than business interruption insurance), paying as the same become due all premiums in respect thereto.

Section 6.05 Indemnification of Board. The Company shall and hereby agrees to indemnify and save the Board and its officers, directors, agents, servants and employees harmless from and against all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Property during the term of this Agreement, and against and from all claims arising during the term of this Agreement, from

(a) any condition of the Property caused by the Company;

(b) any breach or default on the part of the Company in the performance of any its obligations under this Agreement; and

(c) any act of negligence of the Company or of any agents, contractors, servants, employees or licensees of the Company or of any assignee or sublessee of the Company.

The Company shall indemnify and save the Board and its officers, directors, agents, servants and employees harmless from and against all costs and expenses incurred in or in connection with any action or proceeding brought thereon, and, upon notice from the Board, the Company shall defend the Board and any such officer, director, agent, servant or employee or any of them in any such action or proceeding.

Section 6.06 Board Expenses. In addition to other payments required to be made by the Company hereunder, the Company shall pay any reasonable expenses not specifically mentioned herein which are incurred by the Board in connection with the Property or this Agreement.

Section 6.07 Depreciation and Investment Credit. The Board covenants and agrees that depreciation expenses and investment tax credit, if any, with respect to the Project shall be made available to the Company, and the Board will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation expenses or investment tax credit, but the Board shall have no responsibility or liability for failure of the Company to receive any such expenses or credits.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.01 Damage and Destruction. If during the term hereof the Property is damaged by fire or other casualty, the Board shall cause the proceeds received by it from insurance to be paid to the Company for application in one or both of the following ways, as shall be determined by the Company:

(a) Repair, rebuilding or restoration of the property damaged.

(b) Reimbursement to the Company for loss in value of its interest in the Property.

Section 7.02 Condemnation of Property. If title in and to, or the temporary use of, the Property or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Board shall cause the proceeds received by it from any award made in such eminent domain proceeding to be paid to the Company for application in one or more of the following ways, as shall be determined by the Company:

(a) Restoration of the Property to substantially the same condition as existed prior to the exercise of said power of eminent domain.

(b) Acquisition, by construction or otherwise, of other property having substantially the same use and utility as the property taken in such proceedings (which property will be deemed a part of the Property available for use by the Company under this Agreement).

(c) Reimbursement to the Company for loss in value of its interest in the Property.

The Board shall cooperate fully with the Company in the handling and conduct of any prospective or pending eminent domain proceeding with respect to the Property or any part thereof and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the Board. In no event will the Board voluntarily settle, or consent to the settlement of, any prospective or pending eminent domain proceeding with respect to the Property or any part thereof without the written consent of the Company.

ARTICLE VIII

SPECIAL COVENANTS

Section 8.01 No Warranty of Condition or Suitability by Board. The Board makes no warranty, either express or implied, as to the condition of the Property or that it will be suitable for the purposes or needs of the Company. The Company releases the Board from, agrees that the Board shall not be liable for, and agrees to hold the Board and its officers, directors, agents, servants and employees harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Property or the use thereof. The members of the Board of Directors of the Board shall incur no liability either individually or collectively by reason of the obligations undertaken by the Board hereunder.

Section 8.02 Identification of Personal Property Included in Project. The Company will at all times maintain in its permanent records a complete list of the personal property constituting a part of the Project, which will specifically identify each item of such personal property as being property of the Board.

ARTICLE IX

ASSIGNMENT, SUBLEASING, DEVELOPMENT AND SELLING

Section 9.01 Assignment. This Agreement may be only assigned, as a whole or in part, by the Company without the prior written consent of the Board if:

(a) The Company is permitted to assign the PILOT Agreement in accordance with its terms as set forth in Paragraph 15 of the PILOT Agreement;

(b) The assignee shall assume all obligations of the Company hereunder to the extent of the interest assigned and shall provide documentation and information to the Board, as required under Paragraph 15 of the PILOT Agreement; and

(c) The Company and/or assignee shall, within thirty (30) days after the execution and delivery thereof, furnish or cause to be furnished to the Board a true and complete copy of each such assignment and assumption of obligation, as the case may be.

Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from further liability for any of its obligations hereunder as of the effective date of the assignment.

Section 9.02 Subleasing. The Company may sublease all or a portion of the Property without the prior written consent of the Board; provided that any such sublease shall not relieve the Company from its obligations under this Agreement or the PILOT Agreement, and such obligations shall remain in full force and effect.

Section 9.03 Financing Approvals and Consents. The Board shall cooperate with the Company, to the extent reasonable and at no additional cost to the Board, in consummating any financing related to the Project, the Property or other improvements on the Property. Without limitation of the foregoing, the Chairman of the Board, or the Chairman's designee, may, upon the Company's request, enter into or consent to such documents as are necessary to consummate such financing including, without limitation, deeds of trust, estoppel certificates, subordination and non-disturbance agreements, affidavits and certificates, provided that any such documents are expressly non-recourse to the Board beyond its interest in the Property. Any such document shall further be subject to the provisions of Section 8.01 with respect to the immunities provided to members of the Board.

Section 9.04 Cooperation. The Board shall cooperate with the Company, to the extent reasonable and at no additional cost to the Board, in connection with development approvals and requirements and related activities for the Project and the development of the Property. Without limitation of the foregoing, the Chairman of the Board, or the Chairman's designee, may, upon the Company's request, execute zoning, rezoning and variance applications and any subdivision plats, easements or other documents as may be required or useful in connection with the Project or the development of the Property, provided that any such documents are expressly non-recourse to the Board beyond its interest in the Property. Any such document shall further be subject to the provisions of Section 8.01 with respect to the immunities provided to members of the Board.

Section 9.05 Restrictions on Sale of Property by Board. The Board agrees that, except for transactions effected in accordance with Section 11.03 hereof and except as requested by the Company, it will not sell, assign, mortgage, transfer or convey the Property during the Lease Term or create or suffer to be created any debt, lien or charge on the rents, revenues or receipts arising out of or in connection with its ownership of the Property, and it will not take any other action which may reasonably be construed as tending to cause or induce the levy or assessment of ad valorem taxes; provided, that if the laws of the State of Tennessee at the time shall permit,

nothing contained in this Section shall prevent the consolidation of the Board with, or merger into, or transfer of the Property as an entirety to, any public corporation whose property and income are not subject to taxation and which has corporate authority to carry on the business of owning, leasing and selling of the Property; provided that such consolidation, merger or transfer shall be authorized by the governing body of the State of Tennessee.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default Defined. The following shall be "events of default" under this Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Board or the Company to observe and perform any covenant, condition or agreement on its part to be observed or performed, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to one party by the other, unless the one giving notice shall agree in writing to an extension of such time prior to its expiration. If a failure under this Section 10.01(a) is such that it can be corrected but not within the applicable period, it shall not constitute an event of default if appropriate corrective action is instituted within the applicable period and diligently pursued until the default is corrected.

(b) A voluntary Act of Bankruptcy or an Act of Bankruptcy which, if resulting from the filing or commencement of involuntary proceedings against the Company or the Board, is not dismissed or discharged within sixty (60) days of the filing or commencement thereof.

The foregoing provisions of subsection (a) of this Section are subject to the following limitations: if by reasons of force majeure, the Board or the Company is unable in whole or in part to carry out the agreements on its part herein referred to, the failure to perform such agreements due to such inability shall not constitute an event of default nor shall it become an event of default upon appropriate notification or the passage of this stated period of time. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the State of Tennessee or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires, hurricanes, tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Board or the Company. The Board and the Company agree, however, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Board or the Company, as the case may be and the Board and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by

acceding to the demands of the opposing party or parties when such course is, in the judgment of the Board or the Company, unfavorable to it.

Section 10.02 Remedies on Default. Whenever any event of default referred to in Section 10.01 hereof shall have occurred and be subsisting, the Board or the Company, as the case may be, may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant under this Agreement including, without limitation, termination of this Agreement.

ARTICLE XI

OPTIONS IN FAVOR OF COMPANY

Section 11.01 Options to Terminate. The Company shall have the following options to cancel or terminate the term of this Agreement:

(a) At any time, the Company may terminate the Lease Term by giving written notice to the Board of such termination.

(b) At any time, the Company may terminate this Agreement as to a part of the Property by giving written notice to the Board of such termination, and such termination shall forthwith become effective as to that part of the Property.

Section 11.02 Option to Purchase Property. Upon termination or expiration of the Lease Term or termination of this Agreement as to a part of the Property, the Company shall have, and is hereby granted, the option to purchase the Property or that part of the Property as to which the Agreement has been terminated, as the case may be, for the purchase price, in each case, of One Dollar ($1.00). This option may be exercised whether or not the Company is in default hereunder.

Section 11.03 Conveyance on Exercise of Option. Upon exercise of the option granted above, the Board will, upon receipt of the purchase price, deliver to the Company documents conveying to the Company title to the Property or part of the Property, as the case shall be, by appropriate deeds and bills of sale, subject only to

(a) those liens and encumbrances, if any, to which title to said property was subject when conveyed to the Board;

(b) those liens and encumbrances created by or with the consent of the Company; and

(c) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agreement.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by first class United States mail, postage prepaid, or sent by telegram addressed as follows:

Board:	The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee c/o Phillip A. Noblett, Deputy City Attorney Suite 200, 100 E. 11th Street Chattanooga, TN 37402
Company:	1400 Chestnut, LLC 3221 Brookwood Road Birmingham, AL 35223

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

Section 12.02 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Company, the Board, and their respective successors and assigns.

Section 12.03 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.04 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.05 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope, extent or intent of any provision or Section hereof.

Section 12.06 Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Tennessee.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC

By: _____

Title: _____

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, _____, Notary Public, _____ and _____, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained, and who further acknowledged that they are the Chairman and Secretary of the Maker, THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, and are authorized by the Maker to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this ____ day of _____, 2015.

_____
Notary Public
My Commission Expires: _____

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, _____, Notary Public, _____, with whom I am personally acquainted, and who acknowledged that (s)he executed the within instrument for the purposes therein contained, and who further acknowledged that (s)he is the _____ of the Maker, 1400 CHESTNUT, LLC a [Tennessee] limited liability company, and is authorized by the Maker to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this ____ day of _____, 2015.

_____
Notary Public
My Commission Expires: _____

EXHIBIT "A"
TO LEASE

REAL PROPERTY

[INSERT LEGAL DESCRIPTION]

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

STATE OF TENNESSEE
Hamilton County

July 1, 2015
Date (Month, Day, Year)

Hamilton County Board of Commissioners

RESOLUTION

No. 715-15

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE 1400 CHESTNUT, LLC PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL, AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, AND TO AUTHORIZE THE COUNTY MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.

WHEREAS, pursuant to Tennessee Code Annotated, Section 48-101-312(b). Hamilton County (the "County") is permitted to delegate to The Health, Educational, and Housing Facility Board of the City of Chattanooga (the "Corporation") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Corporation upon a finding by the County that such payments are deemed to be in furtherance of the Corporation's public purposes; and,

WHEREAS, 1400 Chestnut, LLC (the "Company") is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and because of the substantial economic benefits to the City and Hamilton County resulting from the Project, has asked the Corporation, the County Commission, and the City Council to approve payments in lieu of ad valorem taxes; and,

WHEREAS, the County has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Corporation's public purposes as set forth within Chapter 101 of Title 48 of the Tennessee Code Annotated;

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNTY LEGISLATIVE BODY IN SESSION ASSEMBLED:

That we do hereby find that the Project referenced above is in the best interest of the County, and that payments in lieu of ad valorem taxes derived therefrom would

be in furtherance of the Corporation's public purposes; and

That having made such a finding in this instance, we do hereby delegate to the Corporation the authority to negotiate and accept payments in lieu of ad valorem taxes from the Company; provided that commercial and/or retail space shall not be eligible for a freeze of in lieu of tax payments, and it being further noted that this delegation is for this purpose and this project only; and,

That the County Mayor is hereby authorized to enter into an Agreement for Payments In Lieu of Ad Valorem Taxes in the form attached hereto, with such changes thereto as he shall approve; and,

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

MB: 419
PAGE: 89

CERTIFICATION OF ACTION

Approved: ☒
Rejected: ☐

County Clerk

Approved: ☑
Vetoed: ☐

County Mayor

July 1, 2015

AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

THIS AGREEMENT is made and entered into as of the ___ day of _____, 2015, by and among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (the "Board"); 1400 CHESTNUT, LLC, a [Tennessee] limited liability company (the "Company"); the CITY OF CHATTANOOGA (the "City"); and HAMILTON COUNTY (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by WILLIAM F. HULLANDER and his successors, acting in the capacity of HAMILTON COUNTY TRUSTEE ("Trustee"), and by WILLIAM C. BENNETT and his successors, acting in the capacity of HAMILTON COUNTY ASSESSOR OF PROPERTY ("Assessor").

W I T N E S S E T H:

WHEREAS, the Company is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial public welfare benefits to the City and County will be derived from the Project; and

WHEREAS, the Board has agreed to take title to certain real and personal property that constitutes the Project, as described in Exhibit "A" attached hereto (the "Property"), which Property is to be owned by the Board and leased to the Company; and

WHEREAS, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §48-101-301, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid

to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, §48-101-312; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the County Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall

appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, and the Company written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this agreement, the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board and the Company a bill for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill to be paid to the County and the Company shall pay to the City Treasurer the amounts on the Tax Bill to be paid to the City in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made by the Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Company.

(a) Property Exclusive of Improvements. For each of the years 2017 and thereafter, the Company shall make payments with respect to the Property in an amount equal to

one hundred percent (100%) of all City and County annual ad valorem property taxes levied in the base year of 2015 (the "Base Year") on the value of the associated Property (land, buildings, etc.). The intent is for the City and County to continue receiving throughout the term of this Agreement all taxes assessed as to the value of the property in the Base Year exclusive of the improvements made in connection with the Project, which improvements are subject to the payment in lieu of tax obligations set forth in subsection (b), immediately below.

(b) Improvements. After construction of the Project is completed and the Assessor of Property has reassessed the then improved Property, the Company shall make In Lieu Payments in the amount required to satisfy the Hamilton County Schools portion of the property taxes that would be due on the improvements to the Property if it were subject to taxation (the "School Portion"), which the parties acknowledge and agree currently equates to [27.1%] of the amount of the total City and County taxes that would have been payable on the improvements to the Property if it were subject to property taxes. Additional In Lieu Payments on the improvements will be as follows:

Year	City General Fund[1]	County General Fund[1]	County School Fund[1]
2017 – 2026	0%	0%	100%
2027	20%	20%	100%
2028	40%	40%	100%
2029	60%	60%	100%
2030	80%	80%	100%
2031	100%	100%	100%

[1] – *The above percentages refer to the percent of the amount of taxes that would have been payable on the improvements to the Property if it were subject to property taxes.*

As noted above, during such years 2017 to 2030, the Company shall continue to pay the School Portion attributable to the Hamilton County Schools. For any periods before or after such 14-year period that the Property is owned by the Board, the Company shall make In Lieu Payments

in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Property if it were subject to property taxes.

(c) For each of the years 2017 to 2030, the Company shall make In Lieu Payments with respect to any commercial and/or retail portion of the Property in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the commercial and/or retail portion of the Property, if any, if it were subject to property taxes.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year before March 1 of the following year. All In Lieu Payments to the City and County shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make any In Lieu Payment when due, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount, for each month that each payment has been unpaid. Such one and one-half percent (1-1/2%) per month late charge amount shall accumulate each month and be payable so long as there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees, and if the Company should fail to pay all amounts and late charges due as provided hereinabove for more than two (2) years, the City or the County may, as to their respective In Lieu Payments, terminate the benefits of this Agreement and

thereafter require the Company to pay one hundred percent (100%) of the amount of taxes that would have been payable on the Property for so long as such payment default continues as determined by the Mayor of the City and the Mayor of the County. In the event of a disagreement between the parties concerning whether or not the Company has cured a default, a representative of the Company may request that the City and County, as applicable, each meet to determine whether such default has been cured, and the Company and the City or the County, as the case may be, shall meet promptly thereafter attempt in good faith to resolve such dispute. The Company may, in addition, file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

(c) If the Company should fail to reserve for lease at least twenty (20%) percent of the available units in the Project to persons whose income does not exceed eighty (80%) percent of the area median income as annually defined in the most recent guidelines published by the Department of Housing and Urban Development, then the City and the County reserve the right but are not obligated to adjust the terms and conditions of the tax abatement granted to the Company under this Agreement for the Tax Abatement Period by requiring the Company to pay an additional amount of the In Lieu Payments on the Property. The City and the County may then require the Company to pay an amount up to the difference between the amounts of the In Lieu Payments required pursuant to Paragraph 4 of this Agreement and the amounts that the Company would have paid using the pro-rated percentage of the affordable housing units associated with the Tax Abatement Period. The County and the City shall look solely to the Company for any repayment obligations.

6. Disbursements by the Treasurer and Trustee. All sums received by the Treasurer pursuant to Paragraph 4 for the benefit of the City general fund shall be disbursed to the general funds of the City in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County general fund shall be disbursed to the general fund of the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received by the Treasurer shall be placed into an account for the use and benefit of the City. All such sums received by the Trustee shall be divided into an account for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account for the educational use and benefit of the County schools. The parties acknowledge and agree that all disbursements to the City and County pursuant to this Agreement are in furtherance of the Board's purposes as set forth in Tennessee Code Annotated §7-53-305.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then it shall present evidence to the Assessor in favor of its position. Likewise, if the Company contests any

such computation, it shall present evidence to the Trustee in favor of its position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith to resolve any disputes as to appraisal, assessment or computation. If the Company and the Assessor or the Trustee are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Annual Report. The Company will provide, on or before January 31 of each calendar year during this Agreement, an annual report to the Board, the Mayor of the City, and the Mayor of the County, summarizing its investment in the Property and a certified rent roll. An independent audit of the annual report may occur if requested by the City or County during any calendar year of this Agreement.

9. Lien on Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

10. Term. This Agreement shall become effective on the date that the Board attains title to the Property and shall continue for so long as the Board holds title to any of the Property or the Company has made all payments required hereunder, whichever shall later occur.

11. Leasehold Taxation. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder. The Company agrees to cooperate fully with the Assessor in

supplying information for completion of leasehold taxation questionnaires with respect to the Property.

12. Stormwater Fees. In addition to other requirements under this Agreement, the Company shall be responsible for all stormwater fees assessed by the City of Chattanooga against the Real Property.

13. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered, if to the City or the Board, c/o Mr. Phillip A. Noblett, Suite 200, 100 E. 11th Street, Chattanooga, Tennessee 37402; if to the County, c/o Mr. Rheubin M. Taylor, County Attorney, Hamilton County Government, Room 204, County Courthouse, Chattanooga, Tennessee 37402-1956; if to the Company, 3221 Brookwood Road, Birmingham, Alabama 35223; if to the Trustee, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; and if to the Assessor, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

14. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

15. Assignment. Except as provided in this Section, the Company may only assign this Agreement, or any part hereof, with the prior consent of the Mayor of the City, the Mayor of the County, and the Board. The Mayor of the City, the Mayor of the County and/or the Board shall not withhold such consent upon the occurrence of all of the following conditions: (i) there is no default under this Agreement at the time of the assignment, (ii) all requirements of the Company under this Agreement have been satisfied as of the date of the assignment, and (iii) any assignee agrees to provide proof of sufficient assets to fund the business plan for the Project and agrees to be bound by the terms of this Agreement from and after the date of assignment (the "Consent Requirements"). If the Company provides the Mayor of the City, the Mayor of the County and the Board (x) a certificate of an officer of the Company certifying that the requirements of (i) and (ii) have been satisfied and (y) proof of sufficient assets to fund the business plan for the Project and a copy of an assignment and assumption agreement pursuant to which the assignee agrees to be bound by the terms of this Agreement, the Mayor of the City, the Mayor of the County and the Board shall each have the option, upon at least seven (7) days' prior notice to the Company, to meet with a representative of the Company within forty-five (45) days of receipt of the Company's certificate for purposes of determining whether the Company has satisfied the Consent Requirements. Unless the Mayor of the City, the Mayor of the County and the Board meet with the Company and all state in writing within such forty-five (45) day period that the Company has not satisfied the Consent Requirements, the Company may assign this Agreement in accordance with the terms and conditions described in the Company's certificate without any further action of the Mayor of the City, the Mayor of the County and/or the Board. In the event that the Mayor of the City, the Mayor of the County and the Board timely state in writing that the Company has not satisfied the Consent Requirements, the Company and the assignee may, upon the Company's

request, appear before the City Council of the City, the Board of Commissioners of the County and the Board to request approval of such assignment pursuant to the terms of this Section, which consents shall not be unreasonably withheld. Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from liability for any of its obligations hereunder as of the effective date of the assignment.

16. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

17. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

19. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

20. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

EXHIBIT "A"
TO AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

REAL PROPERTY

[INSERT LEGAL DESCRIPTION]

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

A RESOLUTION

AUTHORIZING THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, TO TAKE TITLE TO CERTAIN REAL AND PERSONAL PROPERTY, TO EXECUTE A LEASE AGREEMENT TO LEASE SUCH PROPERTY TO 1400 CHESTNUT, LLC (THE "COMPANY") FOR OPERATION OF A MULTI-FAMILY HOUSING FACILITY, AND TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES WITH THE COMPANY.

WHEREAS, 1400 Chestnut, LLC (the "Company"), is considering the operation of a multi-family housing facility on property located in the downtown area of Chattanooga, Hamilton County (the "Project"); and

WHEREAS, the Company has requested that The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the "Board"), agree to take title to the real and personal property comprising the Project (the "Leased Property") and lease the Leased Property to the Company; and

WHEREAS, the Company has provided information in a written application (the "Application") filed with the Board concerning the tenants whom the Company expects to occupy the Project; and

WHEREAS, the Company has requested that the Board agree to enter into an agreement with the Company whereby the Company will make payments in lieu of ad valorem taxes; and

WHEREAS, the City Council of the City of Chattanooga and the Hamilton County Board of Commissioners have delegated to the Board the right to receive payments in lieu of ad valorem property taxes in accordance with Tenn. Code Ann. Section 48-101-312; and

WHEREAS, the ownership of the Leased Property and the leasing thereof to the Company are within the powers of the Board as described in Tenn. Code Ann. Section 48-101-

308, and the provision for payments in lieu of ad valorem property taxes on the Leased Property is within the powers of the Board as described in Tenn. Code Ann. Section 48-101-312; and

WHEREAS, the form of an Agreement for Payments In Lieu of Ad Valorem Taxes and the form of a Lease Agreement have been presented to the Board for approval in connection with this Project;

NOW, THEREFORE, BE IT RESOLVED by The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, as follows:

Section 1. The Board hereby finds that the Project constitutes "Housing" as that term is defined in Tenn. Code Ann. Section 48-101-301, in that the Project will be a multi-family housing facility to be occupied by persons of low and/or moderate income, and /or elderly, and/or handicapped persons, based upon the information supplied by the Company in the Application.

Section 2. The Board agrees to accept title to the Leased Property and to lease the Leased Property to the Company. The form, terms and provisions of the Lease Agreement attached hereto as Exhibit "A" (the "Lease Agreement") are hereby approved, and all of the terms, provisions and conditions of the Lease Agreement are hereby incorporated herein. The Chairman or Vice Chairman of the Board is hereby authorized, empowered and directed to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the Board, and the Secretary or Assistant Secretary of the Board is hereby authorized and directed to attest the same. The Lease Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the officials of the Board executing the same.

Section 3. The Board agrees to enter into the Agreement for Payments in Lieu of Ad Valorem Taxes, attached hereto as Exhibit "B" (the "PILOT Agreement"), with the Company and the form, terms and provisions are hereby approved, and all of the terms, provisions and conditions of the PILOT Agreement are hereby incorporated herein. The Chairman or Vice Chairman of the Board is hereby authorized, empowered and directed to execute, acknowledge and deliver the PILOT Agreement in the name and on behalf of the Board, and the Secretary or Assistant Secretary of the Board is hereby authorized and directed to attest the same. The PILOT Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the officials of the Board executing the same.

Section 4. The Chairman, or Vice Chairman, and Secretary, or Assistant Secretary, of the Board shall be, and they are hereby further authorized and directed for and on behalf of the Board, to take any and all such action as may be required by the Board to carry out, give effect to and consummate the transactions contemplated by the Lease Agreement and the PILOT Agreement authorized pursuant to this resolution and to execute all papers, documents, certificates and other instruments that may be required for the carrying out of the authority conferred by this resolution or to evidence said authority.

Section 5. Prior to or in connection with the execution of the Lease Agreement, the Chairman, or the Chairman's designee, may, upon the Company's request, enter into or consent to such documents as are necessary to consummate the financing and/or development of the Project in the same manner and to the same extent provided under Sections 9.03 and 9.04 of the Lease Agreement; provided that any such transaction or approval must be expressly non-recourse to the Board beyond its interest in the Project and related property and must further

satisfy the requirements of Section 8.01 of the Lease Agreement with respect to the immunities provided to members of the Board.

Approved this 2nd day of July, 2015.

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

By: _____

Title: Vice Chair

AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

THIS AGREEMENT is made and entered into as of the 29th day of April, 2016, by and among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (the "Board"); 1400 CHESTNUT LLC, a Delaware limited liability company (the "Company"); the CITY OF CHATTANOOGA (the "City"); and HAMILTON COUNTY (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by WILLIAM F. HULLANDER and his successors, acting in the capacity of HAMILTON COUNTY TRUSTEE ("Trustee"), and by WILLIAM C. BENNETT and his successors, acting in the capacity of HAMILTON COUNTY ASSESSOR OF PROPERTY ("Assessor").

W I T N E S S E T H:

WHEREAS, the Company is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial public welfare benefits to the City and County will be derived from the Project; and

WHEREAS, the Board has agreed to take title to certain real and personal property that constitutes the Project, as described in Exhibit "A" attached hereto (the "Property"), which Property is to be owned by the Board and leased to the Company; and

WHEREAS, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §48-101-301, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid

to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, §48-101-312; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the County Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall

appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, and the Company written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this agreement, the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board and the Company a bill for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill to be paid to the County and the Company shall pay to the City Treasurer the amounts on the Tax Bill to be paid to the City in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made by the Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Company.

(a) Property Exclusive of Improvements. For each of the years 2017 and thereafter, the Company shall make payments with respect to the Property in an amount equal to

one hundred percent (100%) of all City and County annual ad valorem property taxes levied in the base year of 2015 (the "Base Year") on the value of the associated Property (land, buildings, etc.). The intent is for the City and County to continue receiving throughout the term of this Agreement all taxes assessed as to the value of the property in the Base Year exclusive of the improvements made in connection with the Project, which improvements are subject to the payment in lieu of tax obligations set forth in subsection (b), immediately below.

(b) Improvements. After construction of the Project is completed and the Assessor of Property has reassessed the then improved Property, the Company shall make In Lieu Payments in the amount required to satisfy the Hamilton County Schools portion of the property taxes that would be due on the improvements to the Property if it were subject to taxation (the "School Portion"), which the parties acknowledge and agree currently equates to [27.1%] of the amount of the total City and County taxes that would have been payable on the improvements to the Property if it were subject to property taxes. Additional In Lieu Payments on the improvements will be as follows:

Year	City General Fund[(1)]	County General Fund[(1)]	County School Fund[(1)]
2017 – 2026	0%	0%	100%
2027	20%	20%	100%
2028	40%	40%	100%
2029	60%	60%	100%
2030	80%	80%	100%
2031	100%	100%	100%

[(1)] – *The above percentages refer to the percent of the amount of taxes that would have been payable on the improvements to the Property if it were subject to property taxes.*

As noted above, during such years 2017 to 2030, the Company shall continue to pay the School Portion attributable to the Hamilton County Schools. For any periods before or after such 14-year period that the Property is owned by the Board, the Company shall make In Lieu Payments

in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Property if it were subject to property taxes.

(c) For each of the years 2017 to 2030, the Company shall make In Lieu Payments with respect to any commercial and/or retail portion of the Property in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the commercial and/or retail portion of the Property, if any, if it were subject to property taxes.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year before March 1 of the following year. All In Lieu Payments to the City and County shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make any In Lieu Payment when due, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount, for each month that each payment has been unpaid. Such one and one-half percent (1-1/2%) per month late charge amount shall accumulate each month and be payable so long as there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees, and if the Company should fail to pay all amounts and late charges due as provided hereinabove for more than two (2) years, the City or the County may, as to their respective In Lieu Payments, terminate the benefits of this Agreement and

thereafter require the Company to pay one hundred percent (100%) of the amount of taxes that would have been payable on the Property for so long as such payment default continues as determined by the Mayor of the City and the Mayor of the County. In the event of a disagreement between the parties concerning whether or not the Company has cured a default, a representative of the Company may request that the City and County, as applicable, each meet to determine whether such default has been cured, and the Company and the City or the County, as the case may be, shall meet promptly thereafter attempt in good faith to resolve such dispute. The Company may, in addition, file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

(c) If the Company should fail to reserve for lease at least twenty (20%) percent of the available units in the Project to persons whose income does not exceed eighty (80%) percent of the area median income as annually defined in the most recent guidelines published by the Department of Housing and Urban Development, then the City and the County reserve the right but are not obligated to adjust the terms and conditions of the tax abatement granted to the Company under this Agreement for the Tax Abatement Period by requiring the Company to pay an additional amount of the In Lieu Payments on the Property. The City and the County may then require the Company to pay an amount up to the difference between the amounts of the In Lieu Payments required pursuant to Paragraph 4 of this Agreement and the amounts that the Company would have paid using the pro-rated percentage of the affordable housing units associated with the Tax Abatement Period. The County and the City shall look solely to the Company for any repayment obligations.

6. Disbursements by the Treasurer and Trustee. All sums received by the Treasurer pursuant to Paragraph 4 for the benefit of the City general fund shall be disbursed to the general funds of the City in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County general fund shall be disbursed to the general fund of the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received by the Treasurer shall be placed into an account for the use and benefit of the City. All such sums received by the Trustee shall be divided into an account for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account for the educational use and benefit of the County schools. The parties acknowledge and agree that all disbursements to the City and County pursuant to this Agreement are in furtherance of the Board's purposes as set forth in Tennessee Code Annotated §7-53-305.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then it shall present evidence to the Assessor in favor of its position. Likewise, if the Company contests any

such computation, it shall present evidence to the Trustee in favor of its position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith to resolve any disputes as to appraisal, assessment or computation. If the Company and the Assessor or the Trustee are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Annual Report. The Company will provide, on or before January 31 of each calendar year during this Agreement, an annual report to the Board, the Mayor of the City, and the Mayor of the County, summarizing its investment in the Property and a certified rent roll. An independent audit of the annual report may occur if requested by the City or County during any calendar year of this Agreement.

9. Lien on Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

10. Term. This Agreement shall become effective on the date that the Board attains title to the Property and shall continue for so long as the Board holds title to any of the Property or the Company has made all payments required hereunder, whichever shall later occur.

11. Leasehold Taxation. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder. The Company agrees to cooperate fully with the Assessor in

supplying information for completion of leasehold taxation questionnaires with respect to the Property.

12. Stormwater Fees. In addition to other requirements under this Agreement, the Company shall be responsible for all stormwater fees assessed by the City of Chattanooga against the Real Property.

13. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered, if to the City or the Board, c/o Mr. Phillip A. Noblett, Suite 200, 100 E. 11th Street, Chattanooga, Tennessee 37402; if to the County, c/o Mr. Rheubin M. Taylor, County Attorney, Hamilton County Government, Room 204, County Courthouse, Chattanooga, Tennessee 37402-1956; if to the Company, 3221 Brookwood Road, Birmingham, Alabama 35223; if to the Trustee, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; and if to the Assessor, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

14. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

15. Assignment. Except as provided in this Section, the Company may only assign this Agreement, or any part hereof, with the prior consent of the Mayor of the City, the Mayor of the County, and the Board. The Mayor of the City, the Mayor of the County and/or the Board shall not withhold such consent upon the occurrence of all of the following conditions: (i) there is no default under this Agreement at the time of the assignment, (ii) all requirements of the Company under this Agreement have been satisfied as of the date of the assignment, and (iii) any assignee agrees to provide proof of sufficient assets to fund the business plan for the Project and agrees to be bound by the terms of this Agreement from and after the date of assignment (the "Consent Requirements"). If the Company provides the Mayor of the City, the Mayor of the County and the Board (x) a certificate of an officer of the Company certifying that the requirements of (i) and (ii) have been satisfied and (y) proof of sufficient assets to fund the business plan for the Project and a copy of an assignment and assumption agreement pursuant to which the assignee agrees to be bound by the terms of this Agreement, the Mayor of the City, the Mayor of the County and the Board shall each have the option, upon at least seven (7) days' prior notice to the Company, to meet with a representative of the Company within forty-five (45) days of receipt of the Company's certificate for purposes of determining whether the Company has satisfied the Consent Requirements. Unless the Mayor of the City, the Mayor of the County and the Board meet with the Company and all state in writing within such forty-five (45) day period that the Company has not satisfied the Consent Requirements, the Company may assign this Agreement in accordance with the terms and conditions described in the Company's certificate without any further action of the Mayor of the City, the Mayor of the County and/or the Board. In the event that the Mayor of the City, the Mayor of the County and the Board timely state in writing that the Company has not satisfied the Consent Requirements, the Company and the assignee may, upon the Company's

request, appear before the City Council of the City, the Board of Commissioners of the County and the Board to request approval of such assignment pursuant to the terms of this Section, which consents shall not be unreasonably withheld. Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from liability for any of its obligations hereunder as of the effective date of the assignment.

16. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

17. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

19. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

20. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC
BY: KORE CHESNUT LLC,
An Authorized Member

By: _____
James H. Nevins, Manager

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: Jim M. Coppinger
County Mayor

WILLIAM F. HULLANDER

By: William F. Hullander
Hamilton County Trustee

WILLIAM C. BENNETT

By: William C. Bennett
Hamilton County Assessor of Property

EXHIBIT "A"
TO AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

REAL PROPERTY

Located in the City of Chattanooga of Hamilton County, Tennessee:

Being the South fifty (50) feet of Lot Twenty-three (23), Block Thirteen (13), (EXCEPT a small triangular tract along its eastern line), all of Lot Twenty-five (25), Block Eighteen (18), all of Lot Twenty-seven (27), Block Eighteen (18), (EXCEPT the south 4 feet thereof) in Carter, Fort and Whiteside Addition to the City of Chattanooga, and that part of formerly Frank Street, later West Fourteenth (14th) Street, that lies Eastwardly of Boyce, now Chestnut Street, and Westwardly of the railroad right-of-way (being officially closed by the City of Chattanooga by Ordinance #2948) described as follows: Beginning on the Eastern line of Boyce, now Chestnut Street, 350 feet Southwardly along said line from its intersection with the Southern line of West Thirteenth (13th) Street, being in the Northern line of a joint private drive, and in the Western line of said Lot Twenty-three (23), Block Thirteen (13); thence Eastwardly, parallel to West Thirteenth (13th) Street, 228.88 feet, more or less, to the Western line of the property conveyed the Chattanooga and St. Louis Railroad on November 14, 1879; thence Southwardly, along the said right-of-way passing the Southeast corner of said Block Thirteen (13), in the Northern line of what was formerly Frank Street, later West Fourteenth (14th) Street, continuing across said street and along the Eastern line of Lots Twenty-five (25) and Twenty-seven (27), Block Eighteen (18) in all 306 feet, more or less to the Northeastern corner of the property conveyed Starr Box and Printing Company on December 24, 1910, now G. W. Bagwell; thence Westwardly, along the Northern line of said property being the Southern line of a 10-foot private alley, 233 feet to the Eastern line of Boyce, now Chestnut Street; thence Northwardly along said Eastern line, being the western line of said Lots 27 and 25, across what was formerly Frank Street, continuing along Lot Twenty-three (23), 306 feet to the Point of Beginning.

Excepted from the above description is that portion conveyed by James C. Berry to Chestnut Properties, LLC by deed recorded in Book 9045, Page 434, in the Register's Office of Hamilton County, Tennessee.

The source of grantor's interest is found in Deed recorded in Book 10149, Page 951, in the Register's Office of Hamilton County, Tennessee.

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

Book/Page: GI 10732 / 765
Instrument: 2016050300109
3 Page WARRANTY DEED
Recorded by KML on 5/3/2016 at 10:43 AM

DEED RECORDING FEE	15.00
DATA PROCESSING FEE	2.00
TOTAL FEES	$17.00

State of Tennessee Hamilton County Register of Deeds **PAM HURST**

LIMITED WARRANTY DEED

THIS INDENTURE, is made as of the 27th day of April, 2016, between 1400 Chestnut LLC, a Delaware limited liability company (herein the "Grantor"), and THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (herein the "Grantee"),

WITNESSETH: That the said Grantor, for and in consideration of the sum of Ten ($10.00) Dollars, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said Grantee, its successors and assigns, the following described property to-wit:

Located in the City of Chattanooga of Hamilton County, Tennessee:

Being the South fifty (50) feet of Lot Twenty-three (23), Block Thirteen (13), (EXCEPT a small triangular tract along its eastern line), all of Lot Twenty-five (25), Block Eighteen (18), all of Lot Twenty-seven (27), Block Eighteen (18), (EXCEPT the south 4 feet thereof) in Carter, Fort and Whiteside Addition to the City of Chattanooga, and that part of formerly Frank Street, later West Fourteenth (14th) Street, that lies Eastwardly of Boyce, now Chestnut Street, and Westwardly of the railroad right-of-way (being officially closed by the City of Chattanooga by Ordinance #2948) described as follows: Beginning on the Eastern line of Boyce, now Chestnut Street, 350 feet Southwardly along said line from its intersection with the Southern line of West Thirteenth (13th) Street, being in the Northern line of a joint private drive, and in the Western line of said Lot Twenty-three (23), Block Thirteen (13); thence Eastwardly, parallel to West Thirteenth (13th) Street, 228.88 feet, more or less, to the Western line of the property conveyed the Chattanooga and St. Louis Railroad on November 14, 1879; thence Southwardly, along the said right-of-way passing the Southeast corner of said Block Thirteen (13), in the Northern line of what was formerly Frank Street, later West Fourteenth (14th) Street, continuing across said street and along the Eastern line of Lots Twenty-five (25) and Twenty-seven (27), Block Eighteen (18) in all 306 feet, more or less to the Northeastern corner of the property conveyed Starr Box and Printing Company on December 24, 1910, now G. W. Bagwell; thence Westwardly, along the Northern line of said property being the Southern line of a 10-foot private alley, 233 feet to the Eastern line of Boyce, now Chestnut Street; thence Northwardly along said Eastern line, being the western line of said Lots 27 and 25, across what was formerly Frank Street, continuing along Lot Twenty-three (23), 306 feet to the Point of Beginning.

Excepted from the above description is that portion conveyed by James C. Berry to Chestnut Properties, LLC by deed recorded in Book 9045, Page 434, in the Register's Office of Hamilton County, Tennessee.

The source of grantor's interest is found in Deed recorded in Book 10149, Page 951, in the Register's Office of Hamilton County, Tennessee.

Note: According the the ALTA/ACSM Land Title Survey by Roger B. Rimer dated July 13, 2015, the above legal description describes the same property as the following legal description:

BEGINNING at a rod/cap found on the eastern right-of-way of Chestnut Street, having a width of 60 feet, and marking the southwest corner of the VMH Inc. property, as recorded in Deed Book 6094, page 665, in the Register's Office of Hamilton County, Tennessee; thence, leaving said right-of-way and along the southern line of said VMH Inc. property, South 65 degrees 37 minutes 24 seconds East 228.81 feet to a rod/cap set marking the southeast corner of said VMH Inc. property and being on the western line of Lot 1, City of Chattanooga Former CSX Property Subdivision as recorded in Plat Book 74, page 70, in said Register's Office; thence, along the western line of said Lot 1 the following two calls, South 19 degrees 22 minutes 34 seconds West 49.48 feet to a rod/cap set and South 24 degrees 02 minutes 23 seconds West 251.10 feet to a rod/cap set marking the northeast corner of the Chestnut Properties LLC property, as recorded in Deed Book 9045, page 434, in said Register's Office; thence, along the northern line of said Chestnut Properties LLC property, North 65 degrees 29 minutes 36 seconds West 233.38 feet to a Mag Nail set marking the northwest corner of said Chestnut Properties LLC property and being on the eastern right-of-way of said Chestnut Street; thence, along the eastern right-of-way of Chestnut Street, North 24 degrees 08 minutes 36 seconds East 299.87 feet to the Point of Beginning. Said tract herein described contains 1.604 acres or 69,864 square feet, more or less.

This conveyance is subject to the following:

(i) joint easement of a private drive in the northwestern corner of the South fifty (50) feet, more or less, of said Lot 23, Block 13, as set out in the deed registered in Book I, Volume 8, Page 513, in the Register's Office of Hamilton County, Tennessee and in Book P, Volume 16, Page 119 in said Register's Office, also recorded in Book 848, Page 294, in said Register's Office.

(ii) Combined sewer line as shown on ALTA/ACSM Land Title Survey by Roger B. Rimer dated July 13, 2015, Project No. 15-0001 P4:

(iii) any easements reserved in abandoned Frank Street.

The Property is being conveyed in its "as-is" condition with all faults.

To have and to hold the aforesaid real estate together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said Grantee, its successors and assigns in fee simple forever.

The said Grantor does hereby covenant with the said Grantee that as to the title and quiet possession of said real estate it will warrant and forever defend against the claims of all persons claiming the same by, through, or under, Grantor or as the result of an affirmative act of the Grantor, but not further or otherwise.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be executed as of the day and year first above written.

1400 CHESTNUT, LLC, a Delaware limited liability company

By: Kore Chestnut, LLC, an Alabama limited liability company
An authorized member

By: _____
Jim Nevins, Manager

THIS CONVEYANCE IS EXEMPT FROM TRANSFER TAX AS GRANTEE IS A PUBLIC CORPORATION ORGANIZED UNDER THE PROVISIONS OF TENNESSEE CODE ANNOTATED, §48-101-301, ET SEQ.

Prepared by:
Tyler D. Leonard
Hall, Estill, Hardwick, Gable, Golden & Nelson, PC
320 S. Boston Ave, Suite 200
Tulsa, OK. 74103

Name and Address of New Owner:	Send Tax Bills To:	Tax Map No.:
The Health, Educational and Housing Facility Board of The City of Chattanooga, Tennessee	c/o Phillip A. Noblett 100 E. 11th Street, Ste 200 Chattanooga, TN 37402	145F J 003

STATE OF Alabama
COUNTY OF Shelby

Personally appeared before me, Jim Nevins, with whom I am personally acquainted, and who acknowledged that such person executed the within instrument for the purposes therein contained, and who further acknowledged that such person is the Manager of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS my hand, at office, this 27th day of April, 2016.

_____
Notary Public

My Commission Expires: 8/31/19

BETHANY BERTOVIC
My Commission Expires
August 31, 2019

Book/Page: GI 10732 / 768
Instrument: 2016050300110
16 Page LEASE
Recorded by KML on 5/3/2016 at 10:43 AM
MISC RECORDING FEE 80.00
DATA PROCESSING FEE 2.00
TOTAL FEES $82.00
State of Tennessee Hamilton County Register of Deeds PAM HURST

This Instrument Prepared By:
Phillip A. Noblett, Deputy City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered as of this 27th day of April, 2016, by and between **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE** (the "Board"), a public corporation duly created and existing under the laws of the State of Tennessee, and **1400 CHESTNUT LLC** (the "Company"), a Delaware limited liability company.

WITNESSETH:

In consideration of the respective covenants and agreements hereinafter contained, the Board and the Company agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. The following terms when used in this Agreement, unless the context shall clearly indicate another or different meaning or intent, shall be construed as follows:

"Act" means Chapter 333 of the Public Acts of 1969, as codified in Tennessee Code Annotated Sections 48-101-301 et seq., as heretofore amended and as hereafter amended from time to time.

"Act of Bankruptcy" means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Company or the Board under any applicable bankruptcy, insolvency or similar law as now or hereafter in effect.

"Agreement" means this Lease Agreement as it now exists and as it may hereafter be amended.

"Board" means The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, a public corporation duly created and existing under the Act, and its successors and assigns.

"City" means the City of Chattanooga, Tennessee.

"County" means Hamilton County, Tennessee.

The terms "default" and "event of default" mean any occurrence or event specified in Section 10.01 hereof.

The term "pending" with respect to any proceedings commenced by an Act of Bankruptcy means that such proceedings have not been dismissed, or are subject to further appeal.

"PILOT Agreement" means the Agreement for Payments in Lieu of Ad Valorem Taxes entered into by and among the Board, the Company, the City and the County.

"Project" means the multi-family rental housing project located on the Property.

"Property" means the real and personal property described in **Exhibit "A"** attached hereto, together with additions thereto, replacements thereof and substitutions therefor.

ARTICLE II

CERTIFICATIONS

Section 2.01 Certifications by Board. The Board makes the following certifications as the basis for the undertakings on its part herein contained:

(a) The Board is a public corporation of the State of Tennessee, duly organized and existing under the provisions of the Act. The Act authorizes the Board to acquire real and personal property constituting a "Project" under the Act.

(b) The Board has found and does hereby declare that the Project constitutes "multi-family housing facilities" qualifying as a "Project" under the Act and that the acquisition of the Project and the leasing of the same to the Company will be in furtherance of the public purposes for which the Board was created.

(c) The Board has been induced to enter into this undertaking by the promise of the Company to operate a housing facility in the State of Tennessee.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Board threatened, against or affecting the Board in any court or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would materially and adversely affect the validity or enforceability of this Agreement or any agreement or instrument to which the Board is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby.

Section 2.02 Certifications by Company. The Company makes the following certifications as the basis for the undertakings on its part herein contained:

(a) The Company is a Delaware limited liability company duly formed under the laws of the State of Delaware, is in good standing under Tennessee law, has full power and authority to enter into this Agreement and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Agreement and, when executed and delivered by the parties thereto, this Agreement will constitute the valid and binding obligation of the Company enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated herein by the Company, nor the fulfillment of or compliance with the terms and conditions of this Agreement, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of the Company or any agreement or instrument to which the Company is now a party or by which it is bound, or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement.

(c) There are no proceedings pending, or to the knowledge of the Company threatened, against or affecting the Company in any court or before any governmental authority, arbitration board or tribunal which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of the Company, or the ability of the Company to perform its obligations under this Agreement. The Company is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d) No event has occurred and no condition exists with respect to the Company that would constitute an "event of default" under this Agreement, or which, with the lapse of time or with the giving of notice, or both, would become such an "event of default."

ARTICLE III

LEASING CLAUSES; WARRANTY OF TITLE

Section 3.01 Lease of Property. The Board hereby leases to the Company, and the Company hereby leases from the Board, the Property, for the consideration set forth in Section 5.03 hereof and in accordance with the provisions of this Agreement.

Section 3.02 Title. The Board will obtain upon the acquisition thereof good and marketable title to the Property, free from all encumbrances.

Section 3.03 Quiet Enjoyment. The Board covenants and agrees that it will warrant and defend the Company in the quiet enjoyment and peaceable possession of the Property, free from all claims of all persons whatsoever, throughout the Lease Term, so long as the Company shall perform the covenants, conditions and agreements to be performed by it hereunder, or so long as the period for remedying any default in such performance shall not have expired. If the Board shall at any time be called upon to defend the title to said property as aforesaid, it shall not be

required to incur any costs or expenses in connection therewith unless indemnified to its satisfaction against all such costs and expenses.

ARTICLE IV

ACQUISITION, CONSTRUCTION AND INSTALLATION OF PROPERTY

Section 4.01 Agreement to Acquire, Construct and Install Project. The Company agrees that:

(a) It will cause title in and to the Property to be vested in the Board.

(b) It will acquire, construct and install the Project in the name of and on behalf of the Board.

(c) It will complete the acquisition, construction and equipping of the Project as promptly as practicable.

ARTICLE V

EFFECTIVE DATE; DURATION OF LEASE TERM; CONSIDERATION

Section 5.01 Effective Date of this Agreement; Duration of Lease Term. This Agreement shall become effective upon its delivery, and the leasehold estate created hereunder shall then begin, and, subject to the other provisions of this Agreement, shall expire at midnight, December 31, 2030.

Section 5.02 Delivery and Acceptance of Possession. The Board agrees to deliver to the Company sole and exclusive possession of the Project, and the Company agrees to accept possession of the Project upon such delivery.

Section 5.03 Consideration for Lease. In consideration of the lease granted hereunder the Company agrees to:

(a) Acquire, construct and install the Project as described in Section 4.01 hereof;

(b) Operate the Project as a multi-family housing facility for its own benefit and for the benefit of the citizens of the County and the City; and

(c) Make the payments required of it under the PILOT Agreement.

ARTICLE VI

MAINTENANCE: MODIFICATION: TAXES AND INSURANCE

Section 6.01 Maintenance and Modification of Property by Company. The Company agrees that throughout the term of this Agreement it will, at its own expense, keep the Property (i) in as reasonably safe condition as its operations shall permit, and (ii) in good repair and in good operating condition, normal wear and tear and obsolescence excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof.

Section 6.02 Removal of Personal Property Included in Project. The Board shall not be under any obligation to renew, repair or replace any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary personal property constituting a part of the Project. In any instance where the Company in its sole discretion determines that any items of such personal property have become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary, the Company may remove such items of personal property and (on behalf of the Board) sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Board therefor.

Section 6.03 Taxes, Other Governmental Charges and Utility Charges. The Board and the Company acknowledge that under present law the Project will be exempt from taxation in the State of Tennessee. The Company will pay, as the same become lawfully due and payable, (i) all taxes and governmental charges of any kind whatsoever upon or with respect to the Project and (ii) all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project.

The Company may, at its own expense and in its own name, in good faith contest any such taxes, assessments or other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. The Board will cooperate fully with the Company in any such contest.

Section 6.04 Maintenance of Insurance. Throughout the term of this Agreement, the Company shall keep the Property continuously insured against such risks as are customarily insured against with respect to property similar to the Property by businesses of like size and type (other than business interruption insurance), paying as the same become due all premiums in respect thereto.

Section 6.05 Indemnification of Board. The Company shall and hereby agrees to indemnify and save the Board and its officers, directors, agents, servants and employees harmless from and against all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Property during the term of this Agreement, and against and from all claims arising during the term of this Agreement, from

(a) any condition of the Property caused by the Company;

(b) any breach or default on the part of the Company in the performance of any its obligations under this Agreement; and

(c) any act of negligence of the Company or of any agents, contractors, servants, employees or licensees of the Company or of any assignee or sublessee of the Company.

The Company shall indemnify and save the Board and its officers, directors, agents, servants and employees harmless from and against all costs and expenses incurred in or in connection with any action or proceeding brought thereon, and, upon notice from the Board, the Company shall defend the Board and any such officer, director, agent, servant or employee or any of them in any such action or proceeding.

Section 6.06 Board Expenses. In addition to other payments required to be made by the Company hereunder, the Company shall pay any reasonable expenses not specifically mentioned herein which are incurred by the Board in connection with the Property or this Agreement.

Section 6.07 Depreciation and Investment Credit. The Board covenants and agrees that depreciation expenses and investment tax credit, if any, with respect to the Project shall be made available to the Company, and the Board will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation expenses or investment tax credit, but the Board shall have no responsibility or liability for failure of the Company to receive any such expenses or credits.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.01 Damage and Destruction. If during the term hereof the Property is damaged by fire or other casualty, the Board shall cause the proceeds received by it from insurance to be paid to the Company for application in one or both of the following ways, as shall be determined by the Company:

(a) Repair, rebuilding or restoration of the property damaged.

(b) Reimbursement to the Company for loss in value of its interest in the Property.

Section 7.02 Condemnation of Property. If title in and to, or the temporary use of, the Property or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Board shall cause the proceeds received by it from any award made in such eminent domain proceeding to be paid to the Company for application in one or more of the following ways, as shall be determined by the Company:

(a) Restoration of the Property to substantially the same condition as existed prior to the exercise of said power of eminent domain.

(b) Acquisition, by construction or otherwise, of other property having substantially the same use and utility as the property taken in such proceedings (which property will be deemed a part of the Property available for use by the Company under this Agreement).

(c) Reimbursement to the Company for loss in value of its interest in the Property.

The Board shall cooperate fully with the Company in the handling and conduct of any prospective or pending eminent domain proceeding with respect to the Property or any part thereof and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the Board. In no event will the Board voluntarily settle, or consent to the settlement of, any prospective or pending eminent domain proceeding with respect to the Property or any part thereof without the written consent of the Company.

ARTICLE VIII

SPECIAL COVENANTS

Section 8.01 No Warranty of Condition or Suitability by Board. The Board makes no warranty, either express or implied, as to the condition of the Property or that it will be suitable for the purposes or needs of the Company. The Company releases the Board from, agrees that the Board shall not be liable for, and agrees to hold the Board and its officers, directors, agents, servants and employees harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Property or the use thereof. The members of the Board of Directors of the Board shall incur no liability either individually or collectively by reason of the obligations undertaken by the Board hereunder.

Section 8.02 Identification of Personal Property Included in Project. The Company will at all times maintain in its permanent records a complete list of the personal property constituting a part of the Project, which will specifically identify each item of such personal property as being property of the Board.

ARTICLE IX

ASSIGNMENT, SUBLEASING, DEVELOPMENT AND SELLING

Section 9.01 Assignment. This Agreement may be only assigned, as a whole or in part, by the Company without the prior written consent of the Board if:

(a) The Company is permitted to assign the PILOT Agreement in accordance with its terms as set forth in Paragraph 15 of the PILOT Agreement;

(b) The assignee shall assume all obligations of the Company hereunder to the extent of the interest assigned and shall provide documentation and information to the Board, as required under Paragraph 15 of the PILOT Agreement; and

(c) The Company and/or assignee shall, within thirty (30) days after the execution and delivery thereof, furnish or cause to be furnished to the Board a true and complete copy of each such assignment and assumption of obligation, as the case may be.

Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from further liability for any of its obligations hereunder as of the effective date of the assignment.

Section 9.02 Subleasing. The Company may sublease all or a portion of the Property without the prior written consent of the Board; provided that any such sublease shall not relieve the Company from its obligations under this Agreement or the PILOT Agreement, and such obligations shall remain in full force and effect.

Section 9.03 Financing Approvals and Consents. The Board shall cooperate with the Company, to the extent reasonable and at no additional cost to the Board, in consummating any financing related to the Project, the Property or other improvements on the Property. Without limitation of the foregoing, the Chairman of the Board, or the Chairman's designee, may, upon the Company's request, enter into or consent to such documents as are necessary to consummate such financing including, without limitation, deeds of trust, estoppel certificates, subordination and non-disturbance agreements, affidavits and certificates, provided that any such documents are expressly non-recourse to the Board beyond its interest in the Property. Any such document shall further be subject to the provisions of Section 8.01 with respect to the immunities provided to members of the Board.

Section 9.04 Cooperation. The Board shall cooperate with the Company, to the extent reasonable and at no additional cost to the Board, in connection with development approvals and requirements and related activities for the Project and the development of the Property. Without limitation of the foregoing, the Chairman of the Board, or the Chairman's designee, may, upon the Company's request, execute zoning, rezoning and variance applications and any subdivision plats, easements or other documents as may be required or useful in connection with the Project or the development of the Property, provided that any such documents are expressly non-recourse to the Board beyond its interest in the Property. Any such document shall further be subject to the provisions of Section 8.01 with respect to the immunities provided to members of the Board.

Section 9.05 Restrictions on Sale of Property by Board. The Board agrees that, except for transactions effected in accordance with Section 11.03 hereof and except as requested by the Company, it will not sell, assign, mortgage, transfer or convey the Property during the Lease Term or create or suffer to be created any debt, lien or charge on the rents, revenues or receipts arising out of or in connection with its ownership of the Property, and it will not take any other action which may reasonably be construed as tending to cause or induce the levy or assessment of ad valorem taxes; provided, that if the laws of the State of Tennessee at the time shall permit,

nothing contained in this Section shall prevent the consolidation of the Board with, or merger into, or transfer of the Property as an entirety to, any public corporation whose property and income are not subject to taxation and which has corporate authority to carry on the business of owning, leasing and selling of the Property; provided that such consolidation, merger or transfer shall be authorized by the governing body of the State of Tennessee.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default Defined. The following shall be "events of default" under this Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Board or the Company to observe and perform any covenant, condition or agreement on its part to be observed or performed, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to one party by the other, unless the one giving notice shall agree in writing to an extension of such time prior to its expiration. If a failure under this Section 10.01(a) is such that it can be corrected but not within the applicable period, it shall not constitute an event of default if appropriate corrective action is instituted within the applicable period and diligently pursued until the default is corrected.

(b) A voluntary Act of Bankruptcy or an Act of Bankruptcy which, if resulting from the filing or commencement of involuntary proceedings against the Company or the Board, is not dismissed or discharged within sixty (60) days of the filing or commencement thereof.

The foregoing provisions of subsection (a) of this Section are subject to the following limitations: if by reasons of force majeure, the Board or the Company is unable in whole or in part to carry out the agreements on its part herein referred to, the failure to perform such agreements due to such inability shall not constitute an event of default nor shall it become an event of default upon appropriate notification or the passage of this stated period of time. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the State of Tennessee or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires, hurricanes, tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Board or the Company. The Board and the Company agree, however, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Board or the Company, as the case may be and the Board and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by

acceding to the demands of the opposing party or parties when such course is, in the judgment of the Board or the Company, unfavorable to it.

Section 10.02 Remedies on Default. Whenever any event of default referred to in Section 10.01 hereof shall have occurred and be subsisting, the Board or the Company, as the case may be, may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant under this Agreement including, without limitation, termination of this Agreement.

ARTICLE XI

OPTIONS IN FAVOR OF COMPANY

Section 11.01 Options to Terminate. The Company shall have the following options to cancel or terminate the term of this Agreement:

(a) At any time, the Company may terminate the Lease Term by giving written notice to the Board of such termination.

(b) At any time, the Company may terminate this Agreement as to a part of the Property by giving written notice to the Board of such termination, and such termination shall forthwith become effective as to that part of the Property.

Section 11.02 Option to Purchase Property. Upon termination or expiration of the Lease Term or termination of this Agreement as to a part of the Property, the Company shall have, and is hereby granted, the option to purchase the Property or that part of the Property as to which the Agreement has been terminated, as the case may be, for the purchase price, in each case, of One Dollar ($1.00). This option may be exercised whether or not the Company is in default hereunder.

Section 11.03 Conveyance on Exercise of Option. Upon exercise of the option granted above, the Board will, upon receipt of the purchase price, deliver to the Company documents conveying to the Company title to the Property or part of the Property, as the case shall be, by appropriate deeds and bills of sale, subject only to

(a) those liens and encumbrances, if any, to which title to said property was subject when conveyed to the Board;

(b) those liens and encumbrances created by or with the consent of the Company; and

(c) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agreement.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by first class United States mail, postage prepaid, or sent by telegram addressed as follows:

Board:	The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee c/o Phillip A. Noblett, Deputy City Attorney Suite 200, 100 E. 11th Street Chattanooga, TN 37402
Company:	1400 Chestnut LLC 3221 Brookwood Road Birmingham, AL 35223

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

Section 12.02 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Company, the Board, and their respective successors and assigns.

Section 12.03 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.04 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.05 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope, extent or intent of any provision or Section hereof.

Section 12.06 Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Tennessee.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT LLC

By: _____

Title: _____

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC,

BY: KORE CHESTNUT LLC,
Authorized Representative

By: _____
Name: James H. Nevins
Title: Manager

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, Maria Manalla, Notary Public, Hicks Armor and Dana Perry, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained, and who further acknowledged that they are the Chairman and Secretary of the Maker, THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, and are authorized by the Maker to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this 17th day of March, 2016.

MARIA E. MANALLA
STATE OF TENNESSEE NOTARY PUBLIC
HAMILTON COUNTY

Maria Manalla
Notary Public
My Commission Expires: 5/27/18

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, _____, Notary Public, _____, with whom I am personally acquainted, and who acknowledged that (s)he executed the within instrument for the purposes therein contained, and who further acknowledged that (s)he is the _____ of the Maker, 1400 CHESTNUT LLC a Delaware limited liability company, and is authorized by the Maker to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this ____ day of _____, 2016.

_____
Notary Public
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF _____

Personally appeared before me, _____, Notary Public, _____ and _____, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained, and who further acknowledged that they are the Chairman and Secretary of the Maker, THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, and are authorized by the Maker to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this ____ day of _____, 2015.

Notary Public
My Commission Expires:

STATE OF ALABAMA
COUNTY OF Shelby

Personally appeared before me, Bethany Bertovic, Notary Public, James H. Nevins , with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Manager of KORE Chestnut LLC, a Member of 1400 CHESTNUT LLC a Delaware limited liability company, and is authorized by the Company to execute this instrument on behalf of the Maker.

WITNESS my hand, at office, this 13th day of April, 2016.

Notary Public
My Commission Expires: 8/31/19

BETHANY BERTOVIC
My Commission Expires
August 31, 2019

EXHIBIT "A"
TO LEASE

REAL PROPERTY

Located in the City of Chattanooga of Hamilton County, Tennessee:

Being the South fifty (50) feet of Lot Twenty-three (23), Block Thirteen (13), (EXCEPT a small triangular tract along its eastern line), all of Lot Twenty-five (25), Block Eighteen (18), all of Lot Twenty-seven (27), Block Eighteen (18), (EXCEPT the south 4 feet thereof) in Carter, Fort and Whiteside Addition to the City of Chattanooga, and that part of formerly Frank Street, later West Fourteenth (14th) Street, that lies Eastwardly of Boyce, now Chestnut Street, and Westwardly of the railroad right-of-way (being officially closed by the City of Chattanooga by Ordinance #2948) described as follows: Beginning on the Eastern line of Boyce, now Chestnut Street, 350 feet Southwardly along said line from its intersection with the Southern line of West Thirteenth (13th) Street, being in the Northern line of a joint private drive, and in the Western line of said Lot Twenty-three (23), Block Thirteen (13); thence Eastwardly, parallel to West Thirteenth (13th) Street, 228.88 feet, more or less, to the Western line of the property conveyed the Chattanooga and St. Louis Railroad on November 14, 1879; thence Southwardly, along the said right-of-way passing the Southeast corner of said Block Thirteen (13), in the Northern line of what was formerly Frank Street, later West Fourteenth (14th) Street, continuing across said street and along the Eastern line of Lots Twenty-five (25) and Twenty-seven (27), Block Eighteen (18) in all 306 feet, more or less to the Northeastern corner of the property conveyed Starr Box and Printing Company on December 24, 1910, now G. W. Bagwell; thence Westwardly, along the Northern line of said property being the Southern line of a 10-foot private alley, 233 feet to the Eastern line of Boyce, now Chestnut Street; thence Northwardly along said Eastern line, being the western line of said Lots 27 and 25, across what was formerly Frank Street, continuing along Lot Twenty-three (23), 306 feet to the Point of Beginning.

Excepted from the above description is that portion conveyed by James C. Berry to Chestnut Properties, LLC by deed recorded in Book 9045, Page 434, in the Register's Office of Hamilton County, Tennessee.

The source of grantor's interest is found in Deed recorded in Book 10149, Page 951, in the Register's Office of Hamilton County, Tennessee.

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

MILLER & MARTIN PLLC

MARK W. SMITH
Direct Dial 423-785-8357
Direct Fax 423-321-1527
Mark.Smith@millermartin.com

May 5, 2016

Office of the Comptroller
Division of Property Assessments
Suite 1400 (EDA Compliance)
505 Deaderick Street
Nashville, Tennessee 37243-0277

Attention: Mr. Barry Monson

RE: *PILOT Agreement between The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee and 1400 Chestnut, LLC*

Dear Mr. Monson:

Enclosed in accordance with the requirements of T.C.A. Section 4-17-301, *et. seq.,* is a copy of an Agreement For Payments In Lieu Of Ad Valorem Taxes as Part of the Downtown Housing Incentive Program between The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee and 1400 Chestnut, LLC.

Sincerely,

Mark W. Smith

MWS:cjb
Enclosure
cc Phillip A. Noblett, Esq. (w/enc. – originals for HEB and City)
Rheubin M. Taylor, Esq. (w/enc. – original for County)
Honorable Andy Berke, Mayor (w/enc. – copy)
Honorable James M. Coppinger, County Mayor (w/enc. – copy)
Honorable William C. Bennett (w/enc. – copy)
Ms. Susan Bedwell (w/enc. – copy)

Volunteer Building Suite 1200
832 Georgia Avenue | Chattanooga, TN | 37402-2289
Office 423.756.6600 Fax 423.785.8480
millermartin.com

ATLANTA
CHATTANOOGA
NASHVILLE

AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

THIS AGREEMENT is made and entered into as of the 29th day of April, 2016, by and among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (the "Board"); 1400 CHESTNUT LLC, a Delaware limited liability company (the "Company"); the CITY OF CHATTANOOGA (the "City"); and HAMILTON COUNTY (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by WILLIAM F. HULLANDER and his successors, acting in the capacity of HAMILTON COUNTY TRUSTEE ("Trustee"), and by WILLIAM C. BENNETT and his successors, acting in the capacity of HAMILTON COUNTY ASSESSOR OF PROPERTY ("Assessor").

W I T N E S S E T H:

WHEREAS, the Company is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial public welfare benefits to the City and County will be derived from the Project; and

WHEREAS, the Board has agreed to take title to certain real and personal property that constitutes the Project, as described in Exhibit "A" attached hereto (the "Property"), which Property is to be owned by the Board and leased to the Company; and

WHEREAS, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §48-101-301, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid

to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, §48-101-312; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the County Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall

appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, and the Company written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this agreement, the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board and the Company a bill for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill to be paid to the County and the Company shall pay to the City Treasurer the amounts on the Tax Bill to be paid to the City in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made by the Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Company.

(a) Property Exclusive of Improvements. For each of the years 2017 and thereafter, the Company shall make payments with respect to the Property in an amount equal to

one hundred percent (100%) of all City and County annual ad valorem property taxes levied in the base year of 2015 (the "Base Year") on the value of the associated Property (land, buildings, etc.). The intent is for the City and County to continue receiving throughout the term of this Agreement all taxes assessed as to the value of the property in the Base Year exclusive of the improvements made in connection with the Project, which improvements are subject to the payment in lieu of tax obligations set forth in subsection (b), immediately below.

(b) Improvements. After construction of the Project is completed and the Assessor of Property has reassessed the then improved Property, the Company shall make In Lieu Payments in the amount required to satisfy the Hamilton County Schools portion of the property taxes that would be due on the improvements to the Property if it were subject to taxation (the "School Portion"), which the parties acknowledge and agree currently equates to [27.1%] of the amount of the total City and County taxes that would have been payable on the improvements to the Property if it were subject to property taxes. Additional In Lieu Payments on the improvements will be as follows:

Year	City General Fund[1]	County General Fund[1]	County School Fund[1]
2017 – 2026	0%	0%	100%
2027	20%	20%	100%
2028	40%	40%	100%
2029	60%	60%	100%
2030	80%	80%	100%
2031	100%	100%	100%

[1] – *The above percentages refer to the percent of the amount of taxes that would have been payable on the improvements to the Property if it were subject to property taxes.*

As noted above, during such years 2017 to 2030, the Company shall continue to pay the School Portion attributable to the Hamilton County Schools. For any periods before or after such 14-year period that the Property is owned by the Board, the Company shall make In Lieu Payments

in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Property if it were subject to property taxes.

(c) For each of the years 2017 to 2030, the Company shall make In Lieu Payments with respect to any commercial and/or retail portion of the Property in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the commercial and/or retail portion of the Property, if any, if it were subject to property taxes.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year before March 1 of the following year. All In Lieu Payments to the City and County shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make any In Lieu Payment when due, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount, for each month that each payment has been unpaid. Such one and one-half percent (1-1/2%) per month late charge amount shall accumulate each month and be payable so long as there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees, and if the Company should fail to pay all amounts and late charges due as provided hereinabove for more than two (2) years, the City or the County may, as to their respective In Lieu Payments, terminate the benefits of this Agreement and

thereafter require the Company to pay one hundred percent (100%) of the amount of taxes that would have been payable on the Property for so long as such payment default continues as determined by the Mayor of the City and the Mayor of the County. In the event of a disagreement between the parties concerning whether or not the Company has cured a default, a representative of the Company may request that the City and County, as applicable, each meet to determine whether such default has been cured, and the Company and the City or the County, as the case may be, shall meet promptly thereafter attempt in good faith to resolve such dispute. The Company may, in addition, file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

(c) If the Company should fail to reserve for lease at least twenty (20%) percent of the available units in the Project to persons whose income does not exceed eighty (80%) percent of the area median income as annually defined in the most recent guidelines published by the Department of Housing and Urban Development, then the City and the County reserve the right but are not obligated to adjust the terms and conditions of the tax abatement granted to the Company under this Agreement for the Tax Abatement Period by requiring the Company to pay an additional amount of the In Lieu Payments on the Property. The City and the County may then require the Company to pay an amount up to the difference between the amounts of the In Lieu Payments required pursuant to Paragraph 4 of this Agreement and the amounts that the Company would have paid using the pro-rated percentage of the affordable housing units associated with the Tax Abatement Period. The County and the City shall look solely to the Company for any repayment obligations.

6. Disbursements by the Treasurer and Trustee. All sums received by the Treasurer pursuant to Paragraph 4 for the benefit of the City general fund shall be disbursed to the general funds of the City in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County general fund shall be disbursed to the general fund of the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received by the Treasurer shall be placed into an account for the use and benefit of the City. All such sums received by the Trustee shall be divided into an account for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account for the educational use and benefit of the County schools. The parties acknowledge and agree that all disbursements to the City and County pursuant to this Agreement are in furtherance of the Board's purposes as set forth in Tennessee Code Annotated §7-53-305.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then it shall present evidence to the Assessor in favor of its position. Likewise, if the Company contests any

such computation, it shall present evidence to the Trustee in favor of its position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith to resolve any disputes as to appraisal, assessment or computation. If the Company and the Assessor or the Trustee are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Annual Report. The Company will provide, on or before January 31 of each calendar year during this Agreement, an annual report to the Board, the Mayor of the City, and the Mayor of the County, summarizing its investment in the Property and a certified rent roll. An independent audit of the annual report may occur if requested by the City or County during any calendar year of this Agreement.

9. Lien on Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

10. Term. This Agreement shall become effective on the date that the Board attains title to the Property and shall continue for so long as the Board holds title to any of the Property or the Company has made all payments required hereunder, whichever shall later occur.

11. Leasehold Taxation. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder. The Company agrees to cooperate fully with the Assessor in

supplying information for completion of leasehold taxation questionnaires with respect to the Property.

12. Stormwater Fees. In addition to other requirements under this Agreement, the Company shall be responsible for all stormwater fees assessed by the City of Chattanooga against the Real Property.

13. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered, if to the City or the Board, c/o Mr. Phillip A. Noblett, Suite 200, 100 E. 11th Street, Chattanooga, Tennessee 37402; if to the County, c/o Mr. Rheubin M. Taylor, County Attorney, Hamilton County Government, Room 204, County Courthouse, Chattanooga, Tennessee 37402-1956; if to the Company, 3221 Brookwood Road, Birmingham, Alabama 35223; if to the Trustee, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; and if to the Assessor, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

14. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

15. Assignment. Except as provided in this Section, the Company may only assign this Agreement, or any part hereof, with the prior consent of the Mayor of the City, the Mayor of the County, and the Board. The Mayor of the City, the Mayor of the County and/or the Board shall not withhold such consent upon the occurrence of all of the following conditions: (i) there is no default under this Agreement at the time of the assignment, (ii) all requirements of the Company under this Agreement have been satisfied as of the date of the assignment, and (iii) any assignee agrees to provide proof of sufficient assets to fund the business plan for the Project and agrees to be bound by the terms of this Agreement from and after the date of assignment (the "Consent Requirements"). If the Company provides the Mayor of the City, the Mayor of the County and the Board (x) a certificate of an officer of the Company certifying that the requirements of (i) and (ii) have been satisfied and (y) proof of sufficient assets to fund the business plan for the Project and a copy of an assignment and assumption agreement pursuant to which the assignee agrees to be bound by the terms of this Agreement, the Mayor of the City, the Mayor of the County and the Board shall each have the option, upon at least seven (7) days' prior notice to the Company, to meet with a representative of the Company within forty-five (45) days of receipt of the Company's certificate for purposes of determining whether the Company has satisfied the Consent Requirements. Unless the Mayor of the City, the Mayor of the County and the Board meet with the Company and all state in writing within such forty-five (45) day period that the Company has not satisfied the Consent Requirements, the Company may assign this Agreement in accordance with the terms and conditions described in the Company's certificate without any further action of the Mayor of the City, the Mayor of the County and/or the Board. In the event that the Mayor of the City, the Mayor of the County and the Board timely state in writing that the Company has not satisfied the Consent Requirements, the Company and the assignee may, upon the Company's

request, appear before the City Council of the City, the Board of Commissioners of the County and the Board to request approval of such assignment pursuant to the terms of this Section, which consents shall not be unreasonably withheld. Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from liability for any of its obligations hereunder as of the effective date of the assignment.

16. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

17. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

19. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

20. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

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By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC
BY: KORE CHESNUT LLC,
An Authorized Member

By: _____
James H. Nevins, Manager

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

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Secretary

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

By: _____
Chairman

1400 CHESTNUT LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: J. M. Coppinger
County Mayor

WILLIAM F. HULLANDER

By: William F. Hullander
Hamilton County Trustee

WILLIAM C. BENNETT

By: William C Bennett
Hamilton County Assessor of Property

EXHIBIT "A"
TO AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

REAL PROPERTY

Located in the City of Chattanooga of Hamilton County, Tennessee:

Being the South fifty (50) feet of Lot Twenty-three (23), Block Thirteen (13), (EXCEPT a small triangular tract along its eastern line), all of Lot Twenty-five (25), Block Eighteen (18), all of Lot Twenty-seven (27), Block Eighteen (18), (EXCEPT the south 4 feet thereof) in Carter, Fort and Whiteside Addition to the City of Chattanooga, and that part of formerly Frank Street, later West Fourteenth (14th) Street, that lies Eastwardly of Boyce, now Chestnut Street, and Westwardly of the railroad right-of-way (being officially closed by the City of Chattanooga by Ordinance #2948) described as follows: Beginning on the Eastern line of Boyce, now Chestnut Street, 350 feet Southwardly along said line from its intersection with the Southern line of West Thirteenth (13th) Street, being in the Northern line of a joint private drive, and in the Western line of said Lot Twenty-three (23), Block Thirteen (13); thence Eastwardly, parallel to West Thirteenth (13th) Street, 228.88 feet, more or less, to the Western line of the property conveyed the Chattanooga and St. Louis Railroad on November 14, 1879; thence Southwardly, along the said right-of-way passing the Southeast corner of said Block Thirteen (13), in the Northern line of what was formerly Frank Street, later West Fourteenth (14th) Street, continuing across said street and along the Eastern line of Lots Twenty-five (25) and Twenty-seven (27), Block Eighteen (18) in all 306 feet, more or less to the Northeastern corner of the property conveyed Starr Box and Printing Company on December 24, 1910, now G. W. Bagwell; thence Westwardly, along the Northern line of said property being the Southern line of a 10-foot private alley, 233 feet to the Eastern line of Boyce, now Chestnut Street; thence Northwardly along said Eastern line, being the western line of said Lots 27 and 25, across what was formerly Frank Street, continuing along Lot Twenty-three (23), 306 feet to the Point of Beginning.

Excepted from the above description is that portion conveyed by James C. Berry to Chestnut Properties, LLC by deed recorded in Book 9045, Page 434, in the Register's Office of Hamilton County, Tennessee.

The source of grantor's interest is found in Deed recorded in Book 10149, Page 951, in the Register's Office of Hamilton County, Tennessee.

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.

STATE OF TENNESSEE

DEPARTMENT OF ENVIRONMENT & CONSERVATION

DIVISION OF REMEDIATION

BROWNFIELD VOLUNTARY AGREEMENT

RE: 1400 Chestnut LLC
1400 Chestnut Street, Chattanooga, Tennessee 37402

SITE NUMBER: 33-749

INTRODUCTION

This Brownfield Voluntary Agreement (hereinafter "AGREEMENT") is made and entered into as of June 8, 2016, by and between the Tennessee Department of Environment and Conservation (the "Department"), and 1400 Chestnut LLC, a Tennessee limited liability company (the "Voluntary Party") for the purpose of addressing the approximately 1.604 acres of real property in Chattanooga, Tennessee, that comprise the referenced site (hereinafter "Site"), which has the real or perceived threat of the presence on the Site of hazardous substances, solid waste, or any other pollutant.

Robert J. Martineau, Jr. is the duly appointed Commissioner of the Department. Steve Goins, Director of the Department's Remediation Division, has been delegated the authority to enter into these Agreements.

Pursuant to T.C.A. § 68-212-224, the Commissioner is authorized to enter into an Agreement with a party who is willing and able to conduct an investigation and remediation of a hazardous substance site or Brownfields Project and who did not generate, transport or release the contamination that is to be addressed at the Site.

REQUIREMENTS

A. SITE LOCATION

The Site is comprised of an approximately 1.604 acre parcel located at 1400 Chestnut Street, Chattanooga, Hamilton County, Tennessee (Tax Map Parcel 145F-J-006). A legal description of the parcel that comprises the Site is attached at **Exhibit A**, which is incorporated herein by reference.

B. ELIGIBILITY

As required by T.C.A. § 68-212-224, a summary description of all known existing environmental investigations, studies, reports or documents concerning the Site's environmental condition has been submitted to the Department by the Voluntary Party. (A copy of the Summary is attached hereto as **Exhibit B**, which is incorporated herein by reference). On the date of entering into this AGREEMENT, the Department has determined that the Site is not listed or been proposed for listing on the federal National Priorities List by the United States Environmental Protection Agency (the "EPA"). By entering into this AGREEMENT, the Voluntary Party certifies to the best of the Voluntary Party's knowledge that the Voluntary Party did not generate, transport or release contamination that is to be addressed at this Site.

C. FINANCIAL REQUIREMENTS

Tennessee Code Annotated § 68-212-224 requires consideration of a fee to enroll in the Voluntary Cleanup Oversight and Assistance Program. The Commissioner has set the following schedule of fees that may apply to all sites working in cooperation with the Department to recover the expense of oversight. These fees are in place of hourly time charges and normal travel costs during the first 150 hours of oversight for the project.

Program Entry	$ 750
Site Characterization	$ 2,000
Remediation	$ 2,500
Risk Assessment	$ 2,000
Vapor Intrusion Evaluation	$ 2,000
Voluntary Agreement / Consent Order	$ 3,000
Land Use Restrictions	$ 500
Annual O&M Review	$ 500

In addition to the fees identified previously, an annual longevity fee of $3,000 will be charged to the Voluntary Party on the anniversary of the date the site was accepted into the Voluntary Program until a letter requiring no further action has been issued or this AGREEMENT has been terminated.

Upon reaching 150 hours of oversight, the Site will be charged the current hourly rate (e.g. seventy-five dollars ($75.00) per hour for FY 2015-2016) per hour of oversight in addition to the fee schedule listed above. This amount includes the current hourly rate and pro rata portion

of benefits for the Department's employees actively employed in oversight of work under this AGREEMENT, including preparation for and attendance at meetings, mileage, any costs billed by State contractor(s) who are actively performing oversight, and the current State overhead rate. Additionally, any out-of-pocket expense, mileage, lab expense or other unusual costs to the Department shall be billed to and paid by the Voluntary Party. The Voluntary Party shall pay each bill referenced in this Section C within sixty (60) days of receipt by the Voluntary Party.

Fees and financial requirements must be paid to remain in the Voluntary Cleanup Oversight and Assistance Program and to receive a letter of no further action under Section H of this AGREEMENT.

D. IDENTIFICATION AND DOCUMENTATION OF CLEANUP

Based on the information submitted to the Department by or behalf of the Voluntary Party, and the Department's own review and investigation of the Site, the Parties hereto agree that the following environmental conditions are to be addressed under this AGREEMENT:

Information regarding environmental conditions is based on: (i) Report of Geotechnical Exploration for 1400 Chestnut Street performed by GEOServices, LLC dated June 19, 2015; (ii) Phase I Environmental Site Assessment for 1400 Chestnut Street performed by GEOServices, LLC dated July 13, 2015; (iii) Phase II Soil Testing for 1400 Chestnut Street performed by Alternative Actions, Inc. dated September 22, 2015; (iv) Phase I Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street[a] performed by Alternative Actions, Inc. dated April 1, 2016; (v) Report of Geotechnical Exploration 1400 Chestnut Street Apartments – Satellite Parking performed by GEOServices LLC dated March 4, 2016; and, (vi) Phase II Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street performed by Alternative Actions, Inc. dated April 1, 2016 (collectively, the "Environmental Reports"), all of which were previously provided to the Department. All environmental conditions set forth in the Environmental Reports are incorporated herein by reference. In summary, the Environmental Reports indicate that the environmental conditions at the Site include, without limitation, historical uses of the Site, the presence of foundry sand, VOC's, metals, and PAH's. A more detailed description regarding each of the Environmental Reports and environmental conditions

[a] The Voluntary Party initially intended to include the 1409 Broad Street parcel as part of the Site that would be subject to this AGREEMENT, and conducted environmental investigations of both the 1400 Chestnut and 1409 Broad Street parcels. Circumstances changed and the 1409 Broad Street parcel is <u>not</u> part of the Site subject to this AGREEMENT.

identified therein follows.

In June 2015, geotechnical exploration was conducted on the 1400 Chestnut Street parcel by GEOServices, LLC. The Geotechnical Report noted that GEOServices encountered foundry sand buried building debris during field activities.

In July 2015, GEOServices conducted a Phase I ESA for 1400 Chestnut Street. According to the GEOServices Phase I ESA report, the 1400 Chestnut Street parcel has been associated with industrial operations since 1885, constituting an environmental condition for the 1400 Chestnut Street parcel. Occupants of the 1400 Chestnut Street parcel have included furniture companies, foundry, printing and lithographing, and chemical companies, (specifically, Chattanooga Furniture Company, Hudson Printing and Lithograph, Chattanooga Sash and Weight Company (foundry) and Fischer Foundry Supply). Similarly, the properties adjacent to the 1400 Chestnut Street parcel involved historical uses that presented environmental conditions: North - JT Cahill Iron and Brass Works (foundry) and Burkhart-Schier Chemical Company (later GAF Corporation) (manufactured and stored chemicals); South - Chattanooga Sash and Weigh Company and Price and Evans Manufacturing Company (foundries located within facilities); and, East - Alabama and Great Southern Railroad Shops. The GEOServices Phase I ESA report further identified a "Ross Mehan or Ross Meehan Foundry" shown on a database report as a TN VCP site with a completed status, but the exact location of such was unknown. GEOServices then concluded that "there is a high probability of finding foundry sand that could be impacted with petroleum and high quantities of metals in addition to construction debris during excavation activities."

In August 2015, Alternative Actions, Inc. ("AAI") performed Phase II testing on the site to 1) determine the extents of the foundry sand used on the site 2) testing of encountered foundry sand for Total Metals, TCLP and PAHs and 3) types of building debris and distribution of the same. Drilling notes in the GEOServices geotechnical report stated that the building debris encountered forced early refusal in many of the borings. Not knowing the full extent of the buried debris, AAI elected to use an excavator to create trenches. All TCLP results passed being well below the regulatory limits, meaning that the foundry sand does not constitute a hazardous waste and may be disposed of off-site as a special waste subject to permitting by the Division of Solid and Hazardous Waste Management.. The majority of the "Total Metals" analysis found metals to be below residential limits with a few exceptions. Arsenic for two samples (4440-06 and 4440-09) was slightly elevated at <12 mg/kg and 11 mg/kg, respectively. The Arsenic

background for Hamilton County is 10.0 mg/kg. Cadmium was slightly elevated for all but one sample ranging between 8.2 mg/kg to 12 mg/kg. Residential target limit for Cadmium is 7.1 mg/kg. One sample, 4440-04, was slightly elevated for Lead, reading 440 mg/kg. Residential target limit for Lead is 400 mg/kg. Two samples, 4440-08 and 4440-09, were slightly elevated for Mercury reading 1.2 mg/kg and 1.6 mg/kg. Residential target limit for Mercury is 0.94 mg/kg. AAI submitted two composite samples for PAH Analysis to determine if semi volatile organics were present. PAH analysis found very small quantities of PAHs being present at hole location 4440 1-4, with most being at or below detection limit. PAH analysis found some hydrocarbons in the Benzene ranges.

In February 2016, AAI conducted a Phase I ESA for the 1400 Chestnut Street and 1409 Broad Street parcels. The AAI Phase I referenced the prior Phase I and Phase II findings of environmental conditions with respect to the 1400 Chestnut Street parcel. The presence of foundry sand was identified as an environmental condition for the Site.

In conjunction with the February 2016 Phase I ESA, AAI also conducted Phase II Environmental Testing, including soil-gas sampling, soil testing, foundry sand testing and a water sample. Soil-gas testing at 1400 Chestnut Street found Acetone, Benzene, 1,3-Butadiene, Carbon disulfide, Chloroform, Chloromethane, Cyclohexane, 1,3-Dichlorobenzene, 1,4-Dioxane, Ethanol, Ethylbenzene, 4-Ethyltoluene, Trichlorofluoromethane, Dichlorofluoromethane, 1,1,2-Trichlorotrifluoroethane, Heptane, n-Hexane, Methylene Chloride, 2-Butanone (MEK), 2-Propanol, Tetrahydrofuran, Toluene, 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene, 2,2,4-Trimethylpentane, m&p-Xylene and o-Xylene. The soil-gas laboratory results were entered into the OSWER Vapor Intrusion Assessment software to determine VI carcinogenic risk and VI hazard. All were found to be "No IUR" or "low risk" except for a single reading for sample SG-2 for 1,3-Butadiene. The development plans will be as paved parking in this location.

All soil samples were found to be "Non Detect" (ND). Analysis of the water sample from SB-3 found 0.018 mg/L of Chloromethane. All foundry sand Total Metals analysis found metal levels to be below RSLs except for sample SB-5 which is 27.3 mg/kg for Arsenic. While above Hamilton County background of 10 mg/kg, AAI opines that this level or Arsenic does not represent a significant elevation and appears to be isolated to the area of sampling, not site wide.

The Department concurs that the Voluntary Party's proposed redevelopment of the Site for residential use in accordance with the terms and conditions of this AGREEMENT is an acceptable clean-up and use of the Site.

E. AGREED LIABILITY RELIEF

Tennessee Code Annotated § 68-212-224(a)(5) provides that the Commissioner of the Department is authorized to limit the liability of a participant in a voluntary agreement or consent order entered into pursuant to T.C.A. § 68-212-224. Such voluntary agreement or consent order may limit the liability of such participant to the obligations set forth therein and exempt the participant from any further liability under any statute administered by the Department for investigation, remediation, monitoring, and/or maintenance of contamination identified and addressed in the voluntary agreement or consent order. The Department may extend this liability protection to successors in interest or in title to the participant, contractors conducting response actions at the Site, developers, future owners, tenants, and lenders, fiduciaries or insurers (collectively "Successor Parties").

In accordance with the above referenced authority, the Department agrees that other than with respect to the obligations set forth in this AGREEMENT, the Voluntary Party and Successor Parties shall bear no liability to the State of Tennessee under any statute administered by the Department for investigation, remediation, monitoring, treatment and/or maintenance of environmental conditions identified in and addressed in this AGREEMENT (collectively referred to as the "*Matters Addressed in this Agreement*"); provided, however, that to the extent that the Voluntary Party or Successor Parties has or maintains an interest in the Site, or possesses and/or controls all or a portion of the Site, its liability protections hereunder are contingent upon its continued adherence and enforcement of any land use restrictions imposed pursuant to or as a result of this AGREEMENT. Nothing in this AGREEMENT shall be construed as limiting the liability or potential liability of the Voluntary Party for contamination occurring after the effective date of this AGREEMENT. This liability protection and all other benefits conferred by this AGREEMENT are extended to all future "Successor Parties" conditioned upon performance of the obligations contained in this AGREEMENT and compliance with the Land Use Restrictions described in Section G below; provided, that such liability protection to other persons does not apply to liability to the extent that such liability arose prior to the effective date of this AGREEMENT.

F. ADMINISTRATIVE SETTLEMENT; THIRD PARTY LIABILITY

This AGREEMENT also constitutes an administrative settlement for purposes of Section 113(f) of CERCLA, 42 U.S.C.§9613(f), pursuant to which the Voluntary Party and Successor

Parties have, as of the effective date of this AGREEMENT, resolved their liability to the State of Tennessee for *Matters Addressed in this Agreement*.

The Voluntary Party shall not be liable to third parties for contribution regarding *Matters Addressed in this Agreement*; provided that, the Voluntary Party gave the third party actual or constructive notice of this AGREEMENT, and the third party was given an actual or constructive opportunity to comment upon this AGREEMENT. The Voluntary Party has demonstrated to the Department that constructive notice was accomplished by publishing a summary of this AGREEMENT in the *Chattanooga News Free Press* at least thirty (30) days prior to the Effective Date of this AGREEMENT. Nothing in this AGREEMENT shall impair the rights of third parties with respect to tort liability claims for damage to person or property arising from the contamination addressed by the voluntary agreement.

G. LAND USE RESTRICTIONS

Upon acquiring an interest in the Site, the Voluntary Party agrees that it will cause the Site to be restricted as follows:

1. The Site has been remediated to accommodate multifamily residential (i.e., apartments). Single-family detached residential use is prohibited.
2. No one will use, access, or otherwise disturb the groundwater beneath the Site, unless authorized by the Department. Without limitation, the installation of groundwater wells for the intended use as a potable water source is prohibited.
3. Except for the Site redevelopment work that is contemplated in this AGREEMENT, the Voluntary Party or Successor Parties must notify the Department prior to any, future invasive activity at the Site, including soil borings or temporary monitoring wells. The Voluntary Party or Successor Parties must demonstrate to the satisfaction of the Department that invasive activity will not pose a danger to public health, safety, or the environment.
4. After completion of the Site redevelopment work that is contemplated in this AGREEMENT, the Voluntary Party or Successor Parties must notify the Department prior to the removal of soil underlying the Site provided by the Site redevelopment. The Voluntary Party or Successor Parties must demonstrate to the satisfaction of the Department that any such proposed soil removal will not pose a danger to public health, safety, or the environment, which may be accomplished through development and

implementation of a Soil Management Plan, if necessary. Any excavated soil removed from the Site shall be managed, transported, and/or disposed of in compliance with all applicable federal, state, and local laws, regulations, and ordinances including, without limitation, those pertaining to environmental protection and occupational safety.

The Voluntary Party agrees that it will cause to be filed any land use restriction identified by the Department as necessary for the safe use of the property in accordance with T.C.A. § 68-212-225. Any party receiving liability protection under this AGREEMENT that seeks approval for restricted uses or seeks to cancel or make a restriction less stringent shall be responsible for any costs incurred by the Department in the review and oversight of work associated with the restriction modification. Upon filing, a copy of this notice shall be mailed to all local governments having jurisdiction over any part of the subject property.

H. AGREED ACTIONS TO BE TAKEN

1. The Voluntary Party agrees to send notification of this AGREEMENT by certified mail to all local governments having jurisdiction over any part of the Site and to all owners of adjoining properties. The Voluntary Party shall provide adequate documentation to the Department to demonstrate that public notice has been accomplished.
2. The Voluntary Party agrees that criteria required in T.C.A. § 68-212-206(d) shall be used in determining containment and cleanup actions, including monitoring and maintenance options to be followed under this AGREEMENT.
3. The Voluntary Party agrees to prepare a Soil Management Plan for Department approval prior to the commencement of construction activities. The Soil Management Plan will include, but not be limited to, excavation and handling procedures to ensure that any offsite disposal of impacted media meets all State and Federal requirements. This document will also allow for a qualified environmental professional to be on site periodically during grading and other intrusive activities to monitor for the presence of foundry sand or other potential contaminants.
4. The Voluntary Party agrees to cover the Site with a four (4) to six (6) inch concrete slab in areas of residential space, and to asphalt surface over areas designated as parking. Any areas of intentional landscaping will include a minimum of two (2) foot clean fill.

5. The Voluntary Party agrees to perform the work set forth in the Soil Management Plan and the Voluntary Party shall submit a written report of its findings to the Department upon of completion of such work. The report shall include, but not be limited to, as-built drawings and waste manifests for offsite disposal. The Voluntary Party agrees to equip all new building structures intended for human occupancy with an engineered vapor barrier with a minimum thickness of 20 mil designed to prevent subsurface vapor phase contamination from migrating into the structure at concentrations greater than applicable screening levels. The Voluntary Party will provide plans certified by a professional engineer for the engineered vapor barrier to the Department for review prior to construction. Following completion of the mitigation system (i.e., the engineered vapor barrier), the Voluntary Party shall submit a written report stamped by a professional engineer that documents the system was installed per specifications, with all seams and penetrations sealed.
6. The Department has determined that the actions in this AGREEMENT constitute "reasonable steps" with respect to *Matters Addressed in this Agreement.* Upon completion of all tasks set forth in this AGREEMENT, the Department shall issue to the Voluntary Party a letter stating the requirements of this AGREEMENT have been fulfilled and no further action is required of the Voluntary Party concerning *Matters Addressed in this Agreement.* Upon the request of the Voluntary Party from time to time, the Department shall issue an interim status letter identifying what specific obligations remain to achieve completion of the tasks set forth in this AGREEMENT. Issuance of a no further action letter shall not relieve the Voluntary Party or Successor Parties of any responsibilities for operation and maintenance activities or continued adherence to and enforcement of land use restrictions, if any, pursuant to T.C.A. § 68-212-225. The Department reserves the right to require additional action for contamination caused by the Voluntary Party occurring after the date of this AGREEMENT or for contamination not identified and addressed under this AGREEMENT, if any.

I. ADDITIONAL REQUIREMENTS

1. The Voluntary Party may request a time extension for any deadline included in this AGREEMENT prior to the deadline. The time extension may be granted through mutual consent for good cause shown.

2. The Voluntary Party or Successor Party shall be responsible for the following obligations during periods when it owns or operates the Site:
    a. Comply with land use restrictions.
    b. Do not impede effectiveness or integrity of any engineering and/or institutional controls present.
    c. Take "reasonable steps" to stop on-going releases.
    d. Prevent or limit human and environmental exposure to any previous releases.
    e. Provide cooperation, assistance and access.
    f. Comply with information requests and subpoenas relative environmental conditions at the property.
    g. Whether or not permits are required for onsite cleanup activities, such activities shall meet the standards that would apply if such permits were required.
3. The Department acknowledges that the Site is being redeveloped through a PILOT program, and that the Voluntary Party itself will not actually own the Site, but rather has obtained a leasehold interest for redevelopment of the Site. Upon expiration of the PILOT, the Voluntary Party or a Successor Party will assume ownership of the Site.

J. SITE ACCESS

During the effective period of this AGREEMENT, and until certification by the Department of completion of all activities under this AGREEMENT, the Department and its representatives or designees shall have access during normal business hours to the Site. Nothing herein shall limit or otherwise affect the Department's right of entry, pursuant to any applicable statute, regulation or permit. The Department and its representative shall comply with all reasonable health and safety plans published by the Voluntary Party or its contractor and used by Site personnel for the purpose of protecting life and property.

K. SUBMISSION OF INFORMATION, REPORTS, OR STUDIES

Any information, reports, or studies submitted under the terms of this AGREEMENT shall contain the following notarized statement:

> "I certify under penalty of law, including but not limited to penalties for perjury, that the information contained in this document and on any attachment is true, accurate and complete to

the best of my knowledge, information and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for intentional violation."

L. RESERVATION OF RIGHTS

1. This AGREEMENT shall not be construed as waiving any right or authority available to the Commissioner to assess responsible parties other than the Voluntary Party for liability for civil penalties or damages incurred by the State, including any natural resource damage claims which the Department or the State of Tennessee may have under Section 107 of CERCLA or any other statute, rule, regulation or common law.
2. Nothing in this AGREEMENT shall be interpreted as limiting the Voluntary Party's right to preserve the confidentiality of attorney work product or client-attorney communication. T.C.A. § 68-212-202 *et seq*. contains no provisions for confidentiality or proprietary information. Therefore, records, reports, test results, or other information submitted to the Department under this AGREEMENT shall be subject to public review. Any and all records, reports, test results or other information relating to a hazardous substance site or the possible hazardous substance at the Site submitted under this AGREEMENT may be used by the Department for all purposes set forth in T.C.A. § 68-212-201 *et seq*.
3. Voluntary Party or Successor Parties may terminate this AGREEMENT as it pertains to them at any time upon written notice to the Department during the time period that they own the site and/or conduct operations at the Site. Upon such termination, the Voluntary Party shall have no further obligations hereunder other than payment of oversight costs accrued to the date of notice of termination and adherence to any notice of land use restrictions filed under T.C.A. § 68-212-225; provided, that both Voluntary Party and Successor Parties shall have and retain all authority, rights and defenses as if this AGREEMENT had never existed.
4. The Department may terminate this AGREEMENT by written notice to the Voluntary Party in the event that the Department receives timely comments from third-party contribution claim holders pursuant to the notice sent under Section F of this AGREEMENT, if any, and such comments disclose facts or considerations that indicate

that this AGREEMENT is inappropriate, improper or inadequate; provided, however, absent fraud or intentional misconduct, that in such event the Voluntary Party may elect to waive the protections set forth in Section F hereunder and the remainder of the terms and conditions of this AGREEMENT shall continue to be in full force and effect. The Department's notice of termination must be made within thirty (30) days of the end of the 30-day notice period required by Section F. The Voluntary Party's waiver notice must be made within fifteen (15) days after receipt of the Department's termination notice.

5. The Department reserves the right to terminate this agreement if the Voluntary Party fails to timely pay fees and other financial requirements specified in Section C Financial Requirements. For the purpose of this AGREEMENT, timely payment means the Department receiving payment from the Voluntary Party within 120 days of the first billing of a financial requirement or according to a payment plan agreed in writing between Voluntary Party and the Department.
6. If any provision of this AGREEMENT is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions of this AGREEMENT will remain in full force and effect.
7. Nothing in this AGREEMENT shall be interpreted as limiting the liability for the improper management and/or disposal of contaminated material removed from the site.
8. The requirements in this AGREEMENT shall not apply to any parcel of the Site until the Voluntary Party actually obtains a property interest or control of such parcel. If the Voluntary Party does not obtain a property interest or control of a parcel, then the parties agree to amend this AGREEMENT as necessary, including without limitation the description of the Site in this AGREEMENT, so that this AGREEMENT applies only to the portion of the Site that is actually owned, leased or controlled by the Voluntary Party.

The individual signing below on behalf of the Voluntary Party represents that he is a duly authorized agent, capable of entering into a binding AGREEMENT on behalf of the Voluntary Party. By entering into this AGREEMENT, this individual certifies that the Voluntary Party did not generate or did not cause to generate, transport or release contamination that is to be addressed at this site.

The Effective Date of this AGREEMENT is the thirtieth (30th) day after the publication of the notice described in Section F of this AGREEMENT.

6/13/16		8-16	
Date	Steve Goins Program Administrator Division of Remediation	Date	Tim Keach 1400 Chestnut LLC

EXHIBIT A

Legal Description

1400 Chestnut Street

Legal description for 1400 Chestnut Street is from a Quitclaim Deed between J. Marshall Berry, Executor of the Estate of James C. Berry, deceased, "Grantor", and 1400 Chestnut, LLC, "Grantee", dated January 8, 2016, found in Book 10647, Page 711, located in the Register's Office of Hamilton County, Tennessee. Property description is as follows:

Located in the City of Chattanooga of Hamilton County, Tennessee:

BEGINNING at a rod/cap found on the eastern right-of-way of Chestnut Street, having a width of 60 feet, and marking the southwest corner of the VMH Inc. property, as recorded in Deed Book 6094, page 665, in the Register's Office of Hamilton County, Tennessee; thence, leaving said right-of-way and along the southern line of said VMH Inc. property, South 65 degrees 37 minutes 24 seconds East 228.81 feet to a rod/cap set marking the southeast corner of said VMH Inc. property and being on the western line of Lot 1, City of Chattanooga Former CSX Property Subdivision as recorded in Plat Book 74, page 70 in said Register's Office; thence, along the western line of said Lot 1 the following two calls, South 19 degrees 22 minutes 34 seconds West 49.48 feet to a rod/cap set and South 24 degrees 02 minutes 23 seconds West 251.10 feet to a rod/cap set marking the northeast corner of the Chestnut Properties LLC property, as recorded in Deed Book 9045, page 434, in said Register's Office; thence, along the northern line of said Chestnut Properties LLC property, North 65 degrees 29 minutes 36 seconds West 233.38 feet to a Mag Nail set marking the northwest corner of said Chestnut Properties LLC property and being on the eastern right-of-way of said Chestnut Street; thence, along the eastern right-of-way of Chestnut Street, North 24 degrees 08 minutes 36 seconds East 299.87 feet to the Point of Beginning. Said tract herein described contains 1.604 acres or 69,864 square feet, more or less.

Subject to joint easement of a private drive in the northwestern corner of the South fifty (50) feet, more or less, of said Lot 23, Block 13, as set out in the deed registered in Book I, Volume 8, Page 513, in the Register's Office of Hamilton County, Tennessee and in Book P, Volume 16, Page 119 in said Register's Office, also recorded in Book 848, Page 294, in said Register's Office.

Subject to the following matters shown on ALTA/ACSM Land Title Survey by Roger B. Rimer dated July 13, 2015, Project No. 15-0001 P4:

a) Combined sewer line.

EXHIBIT B

Summary of Environmental Investigations, Studies, Reports & Documents

Information regarding environmental conditions is based on: (i) Report of Geotechnical Exploration for 1400 Chestnut Street Apartments performed by GEOServices LLC dated June 19, 2015; (ii) Phase I Environmental Site Assessment for 1400 Chestnut Street performed by GEOServices, LLC dated July 13, 2015; (iii) Phase II Soil Testing for 1400 Chestnut Street performed by Alternative Actions, Inc. dated September 22, 2015; (iv) Phase I Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street performed by Alternative Actions, Inc. dated April 1, 2016; (v) Report of Geotechnical Exploration for 1400 Chestnut Apartments – Satellite Parking dating March 4, 2016; and (vi) Phase II Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street performed by Alternative Actions, Inc. dated April 1, 2016 (collectively, the "Environmental Reports"), all of which were previously provided to the Department. Documents regarding environmental conditions at the Site are also located within the files of the Department.

In summary, the Environmental Reports indicate that the environmental conditions at the Site include, without limitation, historical uses of the Site, the presence of foundry sand, VOC's, metals, and PAH's. A more detailed description regarding each of the Environmental Reports and environmental conditions identified therein is set forth at Section D of the AGREEMENT.

Book/Page: GI 10845 / 8
Instrument: 2016090200300
11 Page RESTRICTIONS
Recorded by TLF on 9/2/2016 at 4:09 PM
MISC RECORDING FEE 55.00
DATA PROCESSING FEE 2.00
TOTAL FEES $57.00
State of Tennessee Hamilton County Register of Deeds PAM HURST

This instrument prepared by:
Burr & Forman, LLP (GTY)
511 Union Street, Suite 2300
Nashville, TN 37219

NOTICE OF LAND USE RESTRICTIONS

Notice is hereby given that pursuant to T.C.A. Section 68-212-225 of the *Hazardous Waste Management Act of 1983,* the Commissioner of the Tennessee Department of Environment and Conservation ("TDEC") has determined that land use restrictions are an appropriate remedial action at the below-described property. Pursuant to T.C.A. § 68-212-225(d) the register of deeds shall record this Notice and index it in the grantor index under the names of the owners of the land.

Witnesseth:

WHEREAS, the Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the "Grantor") is the owner of the real property described in a Deed of record with the Hamilton County Register of Deeds at Deed Book 10647, Page 711, herein after referred to as the "Property," and,

WHEREAS, the Property has been remediated, to the extent practicable, to levels protective of human health and the environment in a mixed use / residential area so long as certain land use restrictions are instituted and observed for the Property; and,

WHEREAS, the Grantor has leased the Property to 1400 Chestnut LLC ("Voluntary Party") pursuant to a PILOT agreement;

WHEREAS, the Voluntary Party agreed to impose certain land use restrictions on the Property as set forth hereinafter and has agreed to preserve and maintain these restrictions as part of a Brownfield Voluntary Agreement with TDEC pursuant to T.C.A. § 68-212-224 (the "BVA").

NOW, THEREFORE, in consideration of the foregoing, the Grantor and Voluntary Party hereby declare that the Property should be held, sold, and conveyed subject to the following land use restrictions. Said land use restrictions shall run with the land and shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof and to TDEC and the respective successors and assigns of such parties:

Location of Contamination

The Property is located at 1400 Chestnut Street, Chattanooga, Hamilton County, Tennessee (Tax Map Parcel 145F-J-006). The legal description of the Property is attached at **Exhibit A.** A summary of the environmental conditions at or near the Property is attached as **Exhibit B.**

Land Use Restrictions:

1. The Property has been remediated to accommodate multifamily residential (i.e., apartments). Single-family detached residential use is prohibited without demonstrating to the satisfaction of TDEC Division of Remediation (DoR) that any such proposed use will not pose a danger to public health, safety or the environment. Any approval granted by TDEC for the restricted uses shall be in writing and must contain a reference to this instrument.

2. No one will use, access, or otherwise disturb the groundwater beneath the Property, unless authorized by TDEC DoR. Without limitation, the installation of groundwater wells for the intended use as a potable water source is prohibited.

3. Except for the Property redevelopment work that is contemplated in the BVA, the Grantor and/or Voluntary Party must notify the Department prior to any, future invasive activity at the Property, including soil borings or temporary monitoring wells. The Grantor and/or Voluntary Party must demonstrate to the satisfaction of TDEC DoR that invasive activity will not pose a danger to public health, safety, or the environment.

4. After completion of the Property redevelopment work that is contemplated in this BVA, the Grantor and/or Voluntary Party must notify TDEC DoR prior to the removal of soil underlying the Property provided by the Property redevelopment. The Grantor and/or Voluntary Party must demonstrate to the satisfaction of TDEC DoR that any such proposed soil removal will not pose a danger to public health, safety, or the environment, which may be accomplished through development and implementation of a Soil Management Plan, if necessary. Any excavated soil removed from the Property shall be managed, transported, and/or disposed of in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation, those pertaining to environmental protection and occupational safety.

Enforcement

Any owner of the land or any unit of local government having jurisdiction over any part of the subject Property, may enforce this Notice of Land Use Restrictions by means of a civil action. The Commissioner of TDEC may enforce this Notice of Land Use Restrictions through the issuance of an Administrative Order or by means of a civil action, including one to obtain an injunction against present or threatened violations of the restriction. Pursuant to T.C.A. § 68-212-213, any person who fails, neglects or refuses to comply with a land use restriction commits a Class B misdemeanor and is subject to the assessment of a civil penalty of up to ten thousand dollars ($10,000) per day.

Term

This Notice of Land Use Restrictions shall run with and bind the Property unless/until this Declaration shall be made less stringent or canceled as set forth under the paragraph entitled "Amendment and Termination."

Amendment and Termination

This Notice of Land Use Restrictions may be made less stringent or canceled by the Commissioner of TDEC subject to the requirements of T.C.A. § 68-212-225 if the risk has been eliminated or reduced so that less restrictive land use controls are protective of human health and the environment. No amendment to or termination of this Notice of Land Use Restrictions shall be effective until such amendment or instrument terminating this Notice of Land Use Restrictions is recorded by the Hamilton County Register of Deeds. Any Party that petitions TDEC to cancel or make a Restriction less stringent shall be responsible for any costs incurred by TDEC in the review and oversight of work associated with the restriction modification.

Severability

Invalidation of any of these covenants or restrictions by judgement or count order shall in no way affect any other provisions, which shall remain in full force and effect.

[TDEC approval page and Grantor and 1400 Chestnut LLC signature pages follow]

TDEC Approval of Notice of Land Use Restrictions for Site No. 33-749

Real property described in Deed of record with the Hamilton County Register of Deeds at Deed Book 10647, Page 711.

Approved by:

TDEC Division of Remediation

Name: Steve Goins
Title: Director

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public having authority within the State and County aforesaid, Steve Goins, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Director of the Division of Remediation and is authorized to execute this instrument on behalf of the Department.

WITNESS my hand, at office, this 13th day of June, 2016

Notary Public

My Commission Expires: 10/19/2019
Name: Teresa H Lewis

TERESA H. LEWIS
NOTARY PUBLIC AT LARGE
WILSON CO. TENN.

IN WITNESS WHEREOF, **the Grantor and Voluntary Party have executed this instrument this** 21st **day of** June, **2016.**

Grantor: **Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee**

Signature: Hicks Armor
Printed Name: Hicks Armor
Title: Chairman

STATE OF Tennessee)
COUNTY OF Hamilton)

Personally appeared before me, the undersigned, a Notary Public having authority within the State and County aforesaid, Hicks Armor, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Chairman of Grantor and is authorized to execute this instrument on behalf of the Grantor.

WITNESS my hand, at office, this 29th day of June, 2016

VANESSA MEACHEN STATE OF TENNESSEE NOTARY PUBLIC HAMILTON COUNTY

Vanessa Meachen
Notary Public

My Commission Expires: 4/24/19
Name: Vanessa Meachen

Voluntary Party: **1400 Chestnut, LLC**

Name: _____
Title: _____

STATE OF _____)
COUNTY OF _____)

Personally appeared before me, the undersigned, a Notary Public having authority within the State and County aforesaid, _____, with whom I am personally acquainted, and who acknowledged that he executed the within

IN WITNESS WHEREOF, **the Grantor and Voluntary Party have executed this instrument this _____ day of _____, 2016.**

Grantor: **Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee**

Signature:_____
Printed Name: _____
Title: _____

STATE OF _____)
COUNTY OF _____)

Personally appeared before me, the undersigned, a Notary Public having authority within the State and County aforesaid, _____, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the _____ of Grantor and is authorized to execute this instrument on behalf of the Grantor.

WITNESS my hand, at office, this _____ day of _____, 2016

_____
Notary Public

My Commission Expires: _____
Name:_____

Voluntary Party: **1400 Chestnut, LLC**

Tim Keach
Name: Tim Keach
Title: Manager

STATE OF Tennessee)
COUNTY OF Rutherford)

Personally appeared before me, the undersigned, a Notary Public having authority within the State and County aforesaid, Tim Keach, with whom I am personally acquainted, and who acknowledged that he executed the within

instrument for the purposes therein contained, and who further acknowledged that he is the member of 1400 Chestnut LLC and is authorized to execute this instrument on behalf of the 1400 Chestnut LLC.

WITNESS my hand, at office, this 15 day of June, 2016

Notary Public

My Commission Expires: 11/20/2016
Name: Aimee McEzell

Exhibit A

Legal Description

1400 Chestnut Street

Legal description for 1400 Chestnut Street is from a Quitclaim Deed between J. Marshall Berry, Executor of the Estate of James C. Berry, deceased, "Grantor", and 1400 Chestnut, LLC, "Grantee", dated January 8, 2016, found in Book 10647, Page 711, located in the Register's Office of Hamilton County, Tennessee. Property description is as follows:

Located in the City of Chattanooga of Hamilton County, Tennessee:

BEGINNING at a rod/cap found on the eastern right-of-way of Chestnut Street, having a width of 60 feet, and marking the southwest corner of the VMH Inc. property, as recorded in Deed Book 6094, page 665, in the Register's Office of Hamilton County, Tennessee; thence, leaving said right-of-way and along the southern line of said VMH Inc. property, South 65 degrees 37 minutes 24 seconds East 228.81 feet to a rod/cap set marking the southeast corner of said VMH Inc. property and being on the western line of Lot 1, City of Chattanooga Former CSX Property Subdivision as recorded in Plat Book 74, page 70 in said Register's Office; thence, along the western line of said Lot 1 the following two calls, South 19 degrees 22 minutes 34 seconds West 49.48 feet to a rod/cap set and South 24 degrees 02 minutes 23 seconds West 251.10 feet to a rod/cap set marking the northeast corner of the Chestnut Properties LLC property, as recorded in Deed Book 9045, page 434, in said Register's Office; thence, along the northern line of said Chestnut Properties LLC property, North 65 degrees 29 minutes 36 seconds West 233.38 feet to a Mag Nail set marking the northwest corner of said Chestnut Properties LLC property and being on the eastern right-of-way of said Chestnut Street; thence, along the eastern right-of-way of Chestnut Street, North 24 degrees 08 minutes 36 seconds East 299.87 feet to the Point of Beginning. Said tract herein described contains 1.604 acres or 69,864 square feet, more or less.

Subject to joint easement of a private drive in the northwestern corner of the South fifty (50) feet, more or less, of said Lot 23, Block 13, as set out in the deed registered in Book I, Volume 8, Page 513, in the Register's Office of Hamilton County, Tennessee and in Book P, Volume 16, Page 119 in said Register's Office, also recorded in Book 848, Page 294, in said Register's Office.

Subject to the following matters shown on ALTA/ACSM Land Title Survey by Roger B. Rimer dated July 13, 2015, Project No. 15-0001 P4:

a) Combined sewer line.

Exhibit B

Summary of Environmental Conditions

Information regarding environmental conditions is based on: (i) Report of Geotechnical Exploration for 1400 Chestnut Street performed by GEOServices, LLC dated June 19, 2015; (ii) Phase I Environmental Site Assessment for 1400 Chestnut Street performed by GEOServices, LLC dated July 13, 2015; (iii) Phase II Soil Testing for 1400 Chestnut Street performed by Alternative Actions, Inc. dated September 22, 2015; (iv) Phase I Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street[1] performed by Alternative Actions, Inc. dated April 1, 2016; (v) Report of Geotechnical Exploration 1400 Chestnut Street Apartments – Satellite Parking performed by GEOServices LLC dated March 4, 2016; and, (vi) Phase II Environmental Site Assessment for 1400 Chestnut Street and 1409 Broad Street performed by Alternative Actions, Inc. dated April 1, 2016 (collectively, the "Environmental Reports"), all of which were previously provided to the Department. All environmental conditions set forth in the Environmental Reports are incorporated herein by reference. In summary, the Environmental Reports indicate that the environmental conditions at the Site include, without limitation, historical uses of the Site, the presence of foundry sand, VOC's, metals, and PAH's. A more detailed description regarding each of the Environmental Reports and environmental conditions identified therein follows.

In June 2015, geotechnical exploration was conducted on the 1400 Chestnut Street parcel by GEOServices, LLC. The Geotechnical Report noted that GEOServices encountered foundry sand buried building debris during field activities.

In July 2015, GEOServices conducted a Phase I ESA for 1400 Chestnut Street. According to the GEOServices Phase I ESA report, the 1400 Chestnut Street parcel has been associated with industrial operations since 1885, constituting an environmental condition for the 1400 Chestnut Street parcel. Occupants of the 1400 Chestnut Street parcel have included furniture companies, foundry, printing and lithographing, and chemical companies, (specifically, Chattanooga Furniture Company, Hudson Printing and Lithograph, Chattanooga Sash and Weight Company (foundry) and Fischer Foundry Supply). Similarly, the properties adjacent to the 1400 Chestnut Street parcel involved historical uses that presented environmental conditions: North - JT Cahill Iron and Brass Works (foundry) and Burkhart-Schier Chemical Company (later GAF Corporation) (manufactured and stored chemicals); South - Chattanooga Sash and Weigh Company and Price and Evans Manufacturing Company (foundries located within facilities); and, East - Alabama and Great Southern Railroad Shops. The GEOServices Phase I ESA report further identified a "Ross Mehan or Ross Meehan Foundry" shown on a database report as a TN VCP site with a completed status, but the exact location of such was unknown. GEOServices then concluded that "there is a high probability of finding

[1] The Voluntary Party initially intended to include the 1409 Broad Street parcel as part of the Site that would be subject to this AGREEMENT, and conducted environmental investigations of both the 1400 Chestnut and 1409 Broad Street parcels. Circumstances changed and the 1409 Broad Street parcel is not part of the Site subject to this AGREEMENT.

foundry sand that could be impacted with petroleum and high quantities of metals in addition to construction debris during excavation activities."

In August 2015, Alternative Actions, Inc. ("AAI") performed Phase II testing on the site to 1) determine the extents of the foundry sand used on the site 2) testing of encountered foundry sand for Total Metals, TCLP and PAHs and 3) types of building debris and distribution of the same. Drilling notes in the GEOServices geotechnical report stated that the building debris encountered forced early refusal in many of the borings. Not knowing the full extent of the buried debris, AAI elected to use an excavator to create trenches. All TCLP results passed being well below the regulatory limits, meaning that the foundry sand does not constitute a hazardous waste and may be disposed of off-site as a special waste subject to permitting by the Division of Solid and Hazardous Waste Management.. The majority of the "Total Metals" analysis found metals to be below residential limits with a few exceptions. Arsenic for two samples (4440-06 and 4440-09) was slightly elevated at <12 mg/kg and 11 mg/kg, respectively. The Arsenic background for Hamilton County is 10.0 mg/kg. Cadmium was slightly elevated for all but one sample ranging between 8.2 mg/kg to 12 mg/kg. Residential target limit for Cadmium is 7.1 mg/kg. One sample, 4440-04, was slightly elevated for Lead, reading 440 mg/kg. Residential target limit for Lead is 400 mg/kg. Two samples, 4440-08 and 4440-09, were slightly elevated for Mercury reading 1.2 mg/kg and 1.6 mg/kg. Residential target limit for Mercury is 0.94 mg/kg. AAI submitted two composite samples for PAH Analysis to determine if semi volatile organics were present. PAH analysis found very small quantities of PAHs being present at hole location 4440 1-4, with most being at or below detection limit. PAH analysis found some hydrocarbons in the Benzene ranges.

In February 2016, AAI conducted a Phase I ESA for the 1400 Chestnut Street and 1409 Broad Street parcels. The AAI Phase I referenced the prior Phase I and Phase II findings of environmental conditions with respect to the 1400 Chestnut Street parcel. The presence of foundry sand was identified as an environmental condition for the Site.

In conjunction with the February 2016 Phase I ESA, AAI also conducted Phase II Environmental Testing, including soil-gas sampling, soil testing, foundry sand testing and a water sample. Soil-gas testing at 1400 Chestnut Street found Acetone, Benzene, 1,3-Butadiene, Carbon disulfide, Chloroform, Chloromethane, Cyclohexane, 1,3-Dichlorobenzene, 1,4-Dioxane, Ethanol, Ethylbenzene, 4-Ethyltoluene, Trichlorofluoromethane, Dichlorofluoromethane, 1,1,2-Trichlorotrifluoroethane, Heptane, n-Hexane, Methylene Chloride, 2-Butanone (MEK), 2-Propanol, Tetrahydrofuran, Toluene, 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene, 2,2,4-Trimethylpentane, m&p-Xylene and o-Xylene. The soil-gas laboratory results were entered into the OSWER Vapor Intrusion Assessment software to determine VI carcinogenic risk and VI hazard. All were found to be "No IUR" or "low risk" except for a single reading for sample SG-2 for 1,3-Butadiene. The development plans will be as paved parking in this location.

All soil samples were found to be "Non Detect" (ND). Analysis of the water sample from SB-3 found 0.018 mg/L of Chloromethane. All foundry sand Total Metals analysis found metal levels to be below RSLs except for sample SB-5 which is 27.3 mg/kg for Arsenic. While above Hamilton County background of 10 mg/kg, AAI opines that this level or Arsenic does not represent a significant elevation and appears to be isolated to the area of sampling, not site wide. The Department concurs that the Voluntary Party's proposed redevelopment of the Site for residential use in accordance with the terms and conditions of this AGREEMENT is an acceptable clean-up and use of the Site.

Book/Page: GI 10844 / 980
Instrument: 2016090200298
20 Page AGREEMENT
Recorded by TLF on 9/2/2016 at 4:09 PM
MISC RECORDING FEE 100.00
DATA PROCESSING FEE 2.00
TOTAL FEES $102.00
State of Tennessee Hamilton County Register of Deeds PAM HURST

3/5

This instrument prepared by
and return to:

Thomas M. Hanahan
Wooden & McLaughlin, LLP
211 North Pennsylvania Ave.
One Indiana Square, Suite 1800
Indianapolis, Indiana 46204

PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

THIS PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS (this "**Agreement**") is made to be effective as of the 29th day of August, 2016, by and among **1400 CHESTNUT LLC**, a Delaware limited liability company (hereinafter referred to as "**Borrower**"), **THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE**, a public corporation duly created and existing under the laws of the State of Tennessee (hereinafter referred to as the "**Landlord**"), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association (hereinafter referred to as "**Lender**") and is joined in by **THE CITY OF CHATTANOOGA, TENNESSEE** (hereinafter referred to as "**City**"), and **HAMILTON COUNTY, TENNESSEE** (hereinafter referred to as "**County**"), for purposes of evidencing their consent to the terms hereof.

RECITALS

A. In connection with that certain Agreement For Payments In Lieu Of Ad Valorem Taxes executed by and among Landlord, Borrower, the City of Chattanooga, Tennessee, and Hamilton County, Tennessee (such lease agreement as from time to time modified and amended is hereinafter referred to as the "**PILOT Agreement**") and pursuant to a certain Lease Agreement dated April 27, 2016, executed by Landlord, as landlord, and by Borrower, as tenant, (such lease agreement as from time to time modified and amended is hereinafter referred to as the "**PILOT Lease**") which was recorded at Book Number 10732, Page 768 in the Office of the Register of Deeds for Hamilton County, Tennessee, Landlord has leased to Borrower certain real estate located in Hamilton County, Tennessee, which real estate is more fully described in Exhibit "A" attached hereto and made a part hereof (such real estate is hereinafter referred to as the "**Real Estate**"), for a term beginning April 27, 2016 and ending on December 31, 2030.

B. Lender has agreed to make, subject to certain conditions, and Borrower has agreed to accept from Lender a construction loan in the principal amount of Twenty-Five Million Eight Hundred Thousand and 00/100 Dollars ($25,800,000.00) (hereinafter referred to as the

"**Loan**") for the purpose of financing the construction of a 200 unit apartment complex and related facilities (hereinafter generally referred to as the "**Project**") on the Real Estate (the Real Estate and the Project are collectively hereinafter referred to as the "**Premises**").

C. The Loan shall be secured by, among other things, that certain Leasehold Deed of Trust, Security Agreement and Assignment of Leases and Fixture Filing dated of even date herewith, executed by Borrower for the benefit of Lender encumbering Borrower's interest in the Premises (collectively, such deed of trust as from time to time amended, modified, replaced or restated is hereinafter referred to as the "**Deed of Trust**").

D. The Deed of Trust collaterally assigns to Lender, as security for the Loan, all of Borrower's rights, title and interests in, to and under the PILOT Agreement, the PILOT Lease and any other agreements now or hereafter entered into by Borrower or Landlord in connection with the PILOT Agreement and the PILOT Lease.

E. The PILOT Agreement provides that Borrower cannot assign it rights and interests in the PILOT Agreement or the PILOT Lease without the consent of the Landlord and the consent of the Mayor of the City and the consent of the Mayor of the County.

F. The PILOT Lease provides that Landlord shall cooperate with Borrower, to the extent reasonable, in consummating any financing related to the Project and the Premises, including without limitation, entering into or consenting to such documents as are necessary to consummate such financing.

G. As a condition to closing the Loan, Lender has required that Landlord and Borrower enter into the agreements set forth herein and that the City and the County consent to the terms of this Agreement.

H. Lender is closing the Loan and disbursing the Loan proceeds in reliance upon the agreements contained in this Agreement, but for which it would not close and disburse the Loan.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The above and foregoing Recitals are true and correct and incorporated herein and form a part of this Agreement.

2. Landlord acknowledges the making of the Loan by Lender and consents to the collateral assignment by Borrower to Lender of all of Borrower's rights, title and interests in, to and under the PILOT Agreement, the PILOT Lease and any other agreements now or hereafter entered into by Borrower or Landlord in connection with the PILOT Agreement and the PILOT Lease (hereinafter collectively referred to as the "**Project Documents**") as security for the Loan, but by giving such consent, Landlord acknowledges and agrees that, by such assignment, Lender has not assumed any obligation of Borrower under the Project Documents. Notwithstanding anything

expressed or implied in the Project Documents to the contrary, any restrictions and prohibitions that may be contained in the Project Documents on the assignment of the leasehold interest, and other interests, of Borrower in the Premises shall not apply or extend to any sale or transfer of the leasehold interest, and other interests, of Borrower in the Premises pursuant to a judicial or non-judicial foreclosure sale as a result of the exercise of Lender's rights and remedies under the Deed of Trust.

3. Landlord and Borrower each represent and warrant to Lender that the PILOT Lease is currently in full force and effect without modification and that no default or event which, with the giving of notice or lapse of time, would constitute a default has occurred thereunder.

4. Landlord agrees that it will not modify, amend or terminate the Project Documents without the prior written consent of Lender, which consent Lender agrees shall not be unreasonably withheld. In the event Landlord provides written request to Lender for any amendment or modification of any of the Project Documents, if Lender fails to provide to Landlord written notice of its disapproval of any such amendment or modification within twenty (20) days after receiving Landlord's written request, then Lender shall be deemed to have consented to such written request for amendment or modification of the Project Documents. Borrower agrees that it will not surrender or voluntarily cancel or terminate the PILOT Lease without the prior written consent of Lender and Landlord agrees that it will not accept or permit a surrender or a voluntary cancellation or termination of the PILOT Lease from Borrower without the prior written consent of Lender.

5. Landlord and Borrower each represent and warrant to Lender that all of the conditions and contingencies contained in the Project Documents for the PILOT Lease to take affect have been fully satisfied or waived.

6. Upon the occurrence of an event of default under the Loan, Landlord consents to the acquisition of any rights, title and interests of Borrower in, to and under the Project Documents by Lender, and the transfer of such rights, title and interests to a successor or designee of Lender or purchaser of such title and interests pursuant to Lender's foreclosure or like disposition thereof (either a "**Lender Successor**") provided that no such transfer shall impair or affect Landlord's right to expect full compliance by Lender or any such Lender Successor with the terms and conditions of the Project Documents thereafter and to require the cure of any defaults which occurred prior to the date of such transfer within applicable cure periods, such cure to be either pursuant to any cure provisions under the Lease or pursuant to the cure provisions of Section 10 of this Agreement. It is the intention of the parties hereto that in the event Lender acquires the rights, title and interests of Borrower in the Real Estate pursuant to a trustee's sale or by a deed-in-lieu of a trustee's sale after an event of default has occurred under the documents evidencing the Loan (herein referred to as a "**Lender Acquisition**"), Lender shall succeed to all rights, title and interest of Borrower under the Project Documents and Lender shall be vested with all rights and benefits of Borrower under the Project Documents without the need for any further consents to the assignment of the Project

Documents. Furthermore, without the need for any further consents to the assignment of the Project Documents Lender shall be permitted to convey its rights, title and interest in the Real Estate and assign the Project Documents to a third party (herein referred to as a "**Lender Disposition**") with the effect that such third party purchaser shall be vested with all rights and benefits of Borrower under the Project Documents. Any restrictions and prohibitions contained in the Project Documents on the assignment of the Project Documents shall continue in full force and effect with respect to any proposed assignment of the Project Documents occurring after a Lender Disposition.

7. In the event that Lender exercises its rights as collateral assignee and acquires Borrower's rights, title and interests in the PILOT Lease, then Lender shall be recognized as the tenant under the PILOT Lease and Lender shall be vested with all rights and benefits of Borrower under the Project Documents and shall be permitted to transfer such rights, title and interests to a Lender Successor provided that no such transfer shall impair or affect Landlord's right to expect full compliance by Lender or any such Lender Successor with the terms and conditions of the Project Documents thereafter and to require the cure of any defaults which occurred prior to the date of such transfer within applicable cure periods, such cure to be either pursuant to any cure provisions under the Lease or pursuant to the cure provisions of Section 10 of this Agreement. Notwithstanding the foregoing, Landlord agrees and acknowledges that so long as Lender has not entered into possession of the Real Estate for purposes of operating the Project, Lender shall not be liable for any rent or other obligations of Borrower under the Project Documents notwithstanding any provision in the Project Documents to the contrary. In the event Lender exercises its rights as collateral assignee and acquires Borrower's rights, title and interests in the Project Documents and enters into possession of the Real Estate for purposes of operating the Project, then Lender shall perform the obligations of Borrower under the Project Documents except that Lender shall not be: (a) liable for any act or omission of Borrower under the Project Documents whenever incurred or occurring, provided however, such exclusion of liability for Lender shall not be deemed to relieve Lender for any obligation to cure any event of default under the Project Documents which is not a personal default described in Paragraph 10 of this Agreement, in the event Lender desires to succeed to the interests of Borrower under the Project Documents; (b) subject to any claims for damages that Landlord had, or may have, against Borrower under or in connection with the Project Documents whenever incurred or occurring, provided however, such exclusion of liability for Lender shall not be deemed to relieve Lender for any obligation to cure any event of default under the Project Documents which is not a personal default described in Paragraph 10 of this Agreement, in the event Lender desires to succeed to the interests of Borrower under the Project Documents; or (c) bound by any amendment or modification of the Project Documents made without Lender's written consent or deemed consent pursuant to Paragraph 4 of this Agreement.

8. In the event the PILOT Lease is terminated or cancelled for any reason, including without limitation as a result of the rejection of the lease in a bankruptcy proceeding involving Borrower, other than the failure of Lender to cure a default of Borrower pursuant to Paragraph 10 of this Agreement, prior to the payment in full of the

Loan, then if requested in writing by Lender within thirty (30) days after the effective date of such termination, Lender shall have the right to either (i) purchase the Premises under the same terms and conditions of the option to purchase granted to Borrower under Section 11.02 of the PILOT Lease or (ii) enter into a new ground lease with Landlord containing substantially the same terms and conditions as the PILOT Lease. If Lender elects to purchase the Premises, then Landlord shall convey the Premises pursuant to the terms of Section 11.02 and Section 11.03 of the PILOT Lease. If Lender elects to enter into a new lease for the Premises, then Landlord shall enter into a new ground lease with Lender containing substantially the same terms and conditions as the PILOT Lease. Landlord further agrees and acknowledges that it shall not terminate the PILOT Lease without providing prior written notice to Lender and, if applicable, the opportunity to cure any applicable default as provided in Paragraph 10 below.

9. Lender acknowledges that the lien for the payments in lieu of taxes pursuant to Tenn. Code Ann. §7-53-305 constitutes a lien against the fee simple interest in the Premises that it is, and will continue to be, superior in right, title and dignity to any interest of Lender under the Deed of Trust or otherwise. Lender also acknowledges that the payment in lieu of tax arrangements set forth in the PILOT Documents are only available to the Premises for so long as the Landlord holds title to the Premises pursuant to the PILOT Documents and further acknowledges that upon conveyance of all or any portion of the Premises in fee simple to Lender, the benefits set forth in the PILOT Documents shall immediately terminate as to such portions of the Premises as are conveyed to the Lender from time to time.

10. Landlord agrees to provide Lender with written notice of any default by Borrower under the Project Documents. Lender shall have the right, but not the obligation, to cure any default of Borrower under the Project Documents within thirty (30) days after receipt of written notice of any monetary default from Landlord and (b) sixty (60) days after receipt of written notice of any non-monetary default from Landlord. Notwithstanding anything expressed or implied herein or in the Project Documents to the contrary, with regard to any non-monetary default by Borrower under the Project Documents which Lender has begun action to cure but has not completed such cure during such sixty (60) day period, Landlord will extend Lender's right to cure for such reasonable period of time as may be necessary to cure such default provided Lender is diligently pursuing action to cure any such default. The extended cure period provided to Lender shall include without limitation any period of time (i) during which Lender is diligently pursuing acquisition of Borrower's title and interest in the Premises through foreclosure proceedings or otherwise, (ii) during which Lender's acquisition of Borrower's title and interest in the Premises is stayed by any proceeding in bankruptcy, any injunction or other judicial process, and (iii) after acquisition of Borrower's title and interest in the Premises by Lender during any period in which Borrower or any other party is contesting the validity of the acquisition of Lender's title to the Premises. With respect to those defaults under the Project Documents which are personal to Borrower and are not reasonably capable of being cured by Lender (herein, "**Personal Defaults**"), or with respect to defaults which are not capable of being cured by Lender without possession or ownership of the Premises, Lender shall be deemed to be diligently

pursuing a cure of such default if, within the above-described sixty (60) day initial cure period, Lender commences and thereafter diligently pursues to completion (subject to any judicial stays, injunctions or other delays) foreclosure or power of sale proceedings for Borrower's title and interest in the Premises. Furthermore, in the case of Personal Defaults, Lender shall be deemed to have cured such defaults upon acquiring Borrower's title and interest in the Premises through foreclosure, power of sale or otherwise. In addition, upon acquiring Borrower's title and interest in the Premises through foreclosure, power of sale or otherwise Lender shall be granted such additional time under the Project Documents as may be reasonably necessary for the substantial completion of the construction of the improvements on the Premises and for the opening of the Premises for operation. Lender shall be subrogated to any claim Landlord may have against Borrower which arises in connection with any default by Borrower under the Project Documents which is cured by any action of Lender, and Borrower agrees that all costs and expenses incurred by Lender in connection with any such cure, including but not limited to attorneys' fees, shall be payable by Borrower upon demand with interest on all sums not paid upon demand at the rate of interest equal to the sum of the rate of interest provided for under the Loan plus four percent (4%).

11. Landlord and Borrower acknowledge that Lender has not made any representation or warranty to Landlord or Borrower with respect to the value or adequacy of Lender's collateral or otherwise. Without notice to Landlord, Lender reserves the right to (a) increase, renew, extend, compromise or modify the Loan, (b) exercise, fail to exercise, waive or amend any of its rights under any instrument evidencing, securing or delivered in connection with the Loan, (c) release collateral and any obligor of the Loan and (d) apply any amounts paid to Lender in such order of application as Lender in its sole discretion, deems appropriate.

12. Notwithstanding anything contained herein or in the Project Documents to the contrary, prior to the payment in full of the Loan, all insurance proceeds payable in connection with any casualty, damage or destruction to any portion of the Premises shall be paid to Lender to be applied as provided for in the Deed of Trust. If any portion of such proceeds remain after the payment in full of all sums due and owing to Lender in connection with the Loan, then any remaining sums shall be paid first to Landlord to the extent necessary to give full effect to the terms of the PILOT Lease which provide for a different application between Landlord and Borrower.

13. Notwithstanding anything contained herein or in the Project Documents to the contrary, prior to the payment in full of the Loan, in the event any portion of the Premises is taken in any proceedings by public authorities (by condemnation or otherwise) or is acquired for public or quasi-public purposes by sale in lieu thereof, then all such awards or sales proceeds which are attributable to any improvements located upon the Real Estate shall be paid to Lender to be applied as provided for in the Deed of Trust. If any portion of such awards or sales proceeds remain after the payment in full of all sums due and owing to Lender in connection with the Loan, then any remaining sums shall be paid first to Landlord to the extent necessary to give full effect to the terms of the PILOT Lease which provide for a different application between Landlord and Borrower.

14. Landlord waives notice of (a) the creation, renewal, amendment, modification, increase, decrease, extension, accrual or assignment of the Loan and (b) the reliance of Lender or its successors and assigns upon this Agreement. Without limiting any of the waivers and consents of Landlord set forth herein, Landlord hereby consents to the execution and delivery by Borrower of such supplements and amendments to the Deed of Trust and other documents evidencing the Loan as Lender may require in connection with maintaining and confirming the lien of the Deed of Trust with respect to any future interest, rights and estates of Borrower in any easements and other estates and rights from time to time hereafter created or established which benefit Borrower or the Premises. Such supplements and amendments to the Deed of Trust and other documents evidencing the Loan shall not affect, modify or impair the obligations of Landlord hereunder.

15. Landlord certifies to Lender that there are no mortgages, deeds of trust, security interests or other liens encumbering Landlord's title to the Premises. Landlord agrees that it shall not grant any mortgage, deed of trust, security interest or other lien which encumbers the title of Landlord in the Premises for so long as the Deed of Trust remains in force and effect.

16. Any options or rights in favor of Landlord contained in the Project Documents to acquire title to the leasehold interest, and other interests, of Borrower in the Premises, including without limitation any purchase options or rights of first offer or refusal, are hereby made subject and subordinate to the rights of Lender under the Deed of Trust, and such rights shall not apply or extend with respect to any sale or transfer of the leasehold interest, and other interests, of Borrower in the Premises pursuant to (i) a judicial or non-judicial foreclosure sale or (ii) a conveyance in lieu of a judicial or non-judicial foreclosure sale, provided that such subordination shall not affect Landlord's right and ability to terminate the lease upon the occurrence of a default after applicable notice and cure periods as provided in the PILOT Lease and this Agreement.

17. All notices, demands or other communications of a material nature (but excluding all routine correspondence between Landlord to Borrower) to or among the parties hereto relating hereto or to the Project Documents and/or required or permitted to be given hereunder or under the Project Documents shall be in writing and shall be effective (a) upon the third (3rd) day after being mailed by certified United States mail, postage prepaid with return receipt requested or (b) upon the following day after being sent by an overnight carrier which provides for a return receipt, to the applicable address specified below:

If to Landlord: The Health, Educational and Housing Facility
Board of the City of Chattanooga, Tennessee
100 E. 11th Street, Suite 200
Chattanooga, Tennessee 37402
Attention: Phillip A. Noblett, Deputy City Attorney

If to Borrower:	1400 Chestnut LLC 1610 South Church Street, Suite C Murfreesboro, Tennessee 37130
If to Lender:	U.S. Bank National Association 700 Frederica Street Owensboro, Kentucky 42301 Attention: Ryan A. Jones, Vice President
With a copy to:	Thomas M. Hanahan Wooden & McLaughlin One Indiana Square Suite 1800 Indianapolis, Indiana 46204

or to such other addresses as either Landlord, Borrower or Lender may from time to time specify for itself by notice hereunder. Any notice may be given on behalf of Landlord, Borrower or Lender by such party's legal counsel.

18. Anything in this Agreement to the contrary notwithstanding, Tenant and Lender agree that they shall look solely to the Premises for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Agreement to be observed and/or performed by Landlord. No other property or assets of Landlord shall be subject to levy, execution or other procedures for the satisfaction of Tenant's or Leasehold Mortgagee's remedies hereunder.

19. No recourse shall be had for any claim, obligation, or covenant in this Agreement against any past, present or future director, officer, member, employee, counsel, or agent of Landlord, whether directly or indirectly, and all such liability of any such individual as such is expressly waived and released as a condition of and in consideration for the execution of this Agreement.

20. Each of the undersigned executing this Agreement, certifies, represents and warrants to the other parties hereto that he/she is duly authorized by all action necessary on the part of the party on whose behalf each is executing this Agreement to execute and deliver this document and that this document constitutes a legal, valid and binding obligation of such party in accordance with its terms.

21. The agreements of Landlord, Borrower and Lender set forth herein may not be revoked or amended except by written agreement by and among the parties hereto.

22. In the event any legal action or proceeding is commenced to interpret or enforce, the terms of, or obligations arising out of, this Agreement, or to recover damages for the breach thereof, the party prevailing in any such action or proceeding shall be entitled to recover from the nonprevailing party all reasonable attorneys' fees, costs and

expenses incurred by the prevailing party as shall be plead and proven by such party and awarded by a court of competent jurisdiction. Notwithstanding anything contained herein to the contrary, in no event shall Landlord be required to pay attorneys' fees, costs and expenses of any party, and Tenant agrees to pay the reasonable attorneys' fees, costs and expenses of Landlord incurred in connection with this Agreement or the enforcement thereof.

23. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, notwithstanding that Tennessee conflicts of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

24. Landlord, Tenant and Lender hereby (a) irrevocably submit to the jurisdiction of the state courts of the State of Tennessee and to the jurisdiction of the United States District Court for the Eastern District of Tennessee, in each case located in Hamilton County, Tennessee for the purpose of any suit, action, or other proceeding arising out of or based upon this Agreement; (b) waive and agree not to assert by way of motion, as a defense, or otherwise, in any such suit, action, or proceeding, any claim (i) that they are not subject personally to the jurisdiction of the above-named courts, (ii) that their property is exempt or immune from attachment or execution, (iii) that the suit, action, or proceeding is brought in any inconvenient forum, (iv) that the venue of the suit, action, or proceeding is improper, or (v) that this Agreement or the subject matter hereof may not be enforced in or by such court; and (c) waive and agree not to seek any review by any court of any other jurisdiction which may be called upon to grant an enforcement of the judgment of any such Tennessee state or federal court.

25. In the event of a conflict between the terms of either of the Project Documents and this Agreement, the terms of this Agreement shall govern to the extent of such conflict with respect to the rights of Lender as against Landlord.

26. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything expressed or implied herein to the contrary, this Agreement is being made in favor of Lender for itself and as agent for any parties which might obtain any participating or syndicated interest in the Loan. All references to "Lender" herein shall be construed to mean Lender for itself and as agent for any parties which might obtain any participating or syndicated interest in the Loan. All rights of Lender in, to and under this Agreement shall pass to, and may be exercised by, any assignee of such rights of Lender, including without limitation all holders from time to time of the Loan.

27. The City and the County shall have no obligations under this Agreement and join in the execution of this Agreement solely for the purposes of evidencing their consent to the terms of this Agreement and their consent to (i) the collateral assignment of the Project Documents to Lender pursuant to the Deed of Trust and this Agreement, (ii) any future assignment of the Project Documents to Lender to be effective upon a Lender Acquisition, and (iii) any future assignment of the Project Documents by Lender to a third party in connection with a Lender Disposition. The execution of this

Agreement by the Mayor of the City on behalf of the City and by the Mayor of the County on behalf of the County shall be deemed to be their consent to the assignments of the Project Documents as contemplated or described in this Agreement to the extent required under Section 15 of the PILOT Agreement.

28. This Agreement may be executed in counterparts, each of which taken together shall constitute one and the same instrument and any party hereto may execute this Agreement by executing any such counterpart. The signature page(s) of any counterpart may be detached from a counterpart [without impairing the legal effect of the signature(s) thereon] and attached to any other counterpart identical thereto except for the signature page attached to it. Any executed counterpart which is transmitted to Lender or its attorneys by facsimile or electronic mail transmission shall be deemed to have been properly executed and delivered by all parties executing such counterpart for all purposes hereof to the same effect as if such original executed counterpart was delivered to Lender or its attorneys.

[the remainder of this page is intentionally left blank,
see following separate signature pages for signatures of parties]

SIGNATURE PAGE FOR BORROWER FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, Borrower has executed this Agreement to be effective as of the day and year first above written.

BORROWER:

1400 CHESTNUT LLC,
a Delaware limited liability company

By: KI Chestnut, LLC,
a Tennessee limited liability company,
Its: Manager

By:_____
Timothy Glenn Keach, Chief Manager

By: ARG Chestnut LLC,
an Oklahoma limited liability company,
Its: Manager

By: American Residential Group, Ltd.,
an Oklahoma corporation,
Its: Manager

By:_____
J. Loy Helm, Chairman

SIGNATURE PAGE FOR BORROWER FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, Borrower has executed this Agreement to be effective as of the day and year first above written.

BORROWER:

1400 CHESTNUT LLC,
a Delaware limited liability company

By: KI Chestnut, LLC,
a Tennessee limited liability company,
Its: Manager

By:_____
Timothy Glenn Keach, Chief Manager

By: ARG Chestnut LLC,
an Oklahoma limited liability company,
Its: Manager

By: American Residential Group, Ltd.,
an Oklahoma corporation,
Its: Manager

By:_____
J. Ley Helm, Chairman

STATE OF TENNESSEE)
) SS:
COUNTY OF Rutherford

Before me, the undersigned notary public, of the state and county aforesaid, personally appeared Timothy Glenn Keach, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Manager of KI Chestnut, LLC, a Tennessee limited liability company, which is a Manager of 1400 Chestnut LLC, the within named Borrower, a Delaware limited liability company, and that he as such Chief Manager a Manager of the Grantor executed the foregoing instrument for the purposes therein contained, by signing the name of the Borrower by himself (as the Chief Manager of KI Chestnut, LLC, acting as a Manager of the Borrower), being authorized so to do.

WITNESS my hand and Notarial Seal this 24th day of August, 2016.

Heather E. Adams
(Heather E. Adams) Notary Public

My Commission Expires:

07/06/2020

My County of Residence:

Rutherford

STATE OF TENNESSEE)
) SS:
COUNTY OF Rutherford

Before me, the undersigned notary public, of the state and county aforesaid, personally appeared Timothy Glenn Keach, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Manager of KI Chestnut, LLC, a Tennessee limited liability company, which is a Manager of 1400 Chestnut LLC, the within named Borrower, a Delaware limited liability company, and that he as such Chief Manager a Manager of the Grantor executed the foregoing instrument for the purposes therein contained, by signing the name of the Borrower by himself (as the Chief Manager of KI Chestnut, LLC, acting as a Manager of the Borrower), being authorized so to do.

WITNESS my hand and Notarial Seal this 24th day of August, 2016.

Heather E. Adams
(Heather E. Adams) Notary Public

My Commission Expires:

07/06/2020

My County of Residence:

Rutherford

STATE OF Oklahoma)
) SS:
COUNTY OF Tulsa)

Before me, the undersigned notary public, of the state and county aforesaid, personally appeared J. Loy Helm, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chairman of American Residential Group, Ltd., an Oklahoma corporation, which is a Manager of ARG Chestnut LLC, an Oklahoma limited liability company, which is a Manager of 1400 Chestnut LLC, the within named Borrower, a Delaware limited liability company, and that he as such Chairman of such Manager of a Manager of the Grantor executed the foregoing instrument for the purposes therein contained, by signing the name of the Borrower by himself (as Chairman of American Residential Group, Ltd., acting as a Manager of ARG Chestnut LLC, acting as a Manager of the Borrower), being authorized so to do.

WITNESS my hand and Notarial Seal this 29th day of August, 2016.

Debbie LeDetter
(Debbie LeDetter) Notary Public

My Commission Expires:
Sept. 27, 2016

My County of Residence:
Tulsa

DEBBIE LEDETTER NOTARY PUBLIC COMM. NO. 00014254 STATE OF OKLAHOMA TULSA COUNTY

SIGNATURE PAGE FOR LANDLORD FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, Landlord has executed this Agreement to be effective as of the day and year first above written.

LANDLORD:

THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE,
a Tennessee public corporation

By: Hicks Armor

Printed: Hicks Armor

Title: 8/24/2016 - Chairman

STATE OF TENNESSEE)
) SS:
COUNTY OF HAMILTON)

Before me, Vanessa Meachen, a Notary Public in and for the State and County aforesaid, personally appeared Hicks Armor, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the Chairman of The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee, a public corporation, and is authorized by the corporation to execute the foregoing PILOT Agreement Regarding Leasehold Deed of Trust Rights on behalf of the corporation.

WITNESS my hand and Notarial Seal this 24th day of August, 2016.

Vanessa Meachen
( ) Notary Public

My Commission Expires:
9/21/19

My County of Residence:

VANESSA MEACHEN
NOTARY PUBLIC
STATE OF TENNESSEE
HAMILTON COUNTY

SIGNATURE PAGE FOR LENDER FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, Lender has executed this Agreement to be effective as of the day and year first above written.

LENDER:

U.S. BANK NATIONAL ASSOCIATION,
a national banking association

By: _____
Ryan A. Jones, Vice President

STATE OF Kentucky)
) SS:
COUNTY OF Henderson)

Before me, a Notary Public in and for said County and State, personally appeared Ryan A. Jones, who is a Vice President U.S. BANK NATIONAL ASSOCIATION, a national banking association, with whom I am personally acquainted and who, after having been duly sworn, acknowledged that he as such Vice President executed the foregoing PILOT Agreement Regarding Leasehold Deed of Trust Rights for and on behalf of such bank, being authorized so to do.

WITNESS my hand and Notarial Seal this 14th day of July, 2016.

Bree C. Bartley
( ) Notary Public

My Commission Expires:
09-04-2019

My County of Residence:
Webster

BREE C. BARTLEY
Notary Public
State at Large
Kentucky
My Commission Expires Sep 4, 2019

SIGNATURE PAGE FOR THE CITY OF CHATTANOOGA, TENNESSEE FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, the City of Chattanooga, Tennessee has executed this Agreement, to be effective as of the day and year first above written.

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Andrew Berke, Mayor

STATE OF TENNESSEE)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Andrew Berke, who is the Mayor of the City of Chattanooga, Tennessee, with whom I am personally acquainted and who, after having been duly sworn, acknowledged that he as Mayor executed the foregoing PILOT Agreement Regarding Leasehold Deed of Trust Rights for and on behalf of the City of Chattanooga, Tennessee.

WITNESS my hand and Notarial Seal this 25th day of August, 2016.

_____
( ) Notary Public

My Commission Expires:
9/24/17

My County of Residence:
Hamilton

KATHERINE E. WELLS
STATE OF TENNESSEE NOTARY PUBLIC
HAMILTON COUNTY

SIGNATURE PAGE FOR HAMILTON COUNTY, TENNESSEE FOR PILOT AGREEMENT REGARDING LEASEHOLD DEED OF TRUST RIGHTS

IN WITNESS WHEREOF, Hamilton County, Tennessee has executed this Agreement, to be effective as of the day and year first above written.

HAMILTON COUNTY, TENNESSEE

By: _____
Jim Coppinger, Mayor

STATE OF TENNESSEE)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Jim Coppinger, who is the Mayor of Hamilton County, Tennessee, with whom I am personally acquainted and who, after having been duly sworn, acknowledged that he as Mayor executed the foregoing PILOT Agreement Regarding Leasehold Deed of Trust Rights for and on behalf of Hamilton County, Tennessee.

WITNESS my hand and Notarial Seal this 26th day of August, 2016.

RHEUBIN M. TAYLOR STATE OF TENNESSEE NOTARY PUBLIC COUNTY OF HAMILTON

_____
(Rheubin M. Taylor) Notary Public

My Commission Expires:
May 8, 2017

My County of Residence:
Hamilton

Exhibit "A"
Legal Description

Located in the City of Chattanooga of Hamilton County, Tennessee:

Being the South fifty (50) feet of Lot Twenty-three (23), Block Thirteen (13), (EXCEPT a small triangular tract along its eastern line), all of Lot Twenty-five (25), Block Eighteen (18), all of Lot Twenty-seven (27), Block Eighteen (18), (EXCEPT the south 4 feet thereof) in Carter, Fort and Whiteside Addition to the City of Chattanooga, and that part of formerly Frank Street, later West Fourteenth (14th) Street, that lies Eastwardly of Boyce, now Chestnut Street, and Westwardly of the railroad right-of-way (being officially closed by the City of Chattanooga by Ordinance #2948) described as follows: Beginning on the Eastern line of Boyce, now Chestnut Street, 350 feet Southwardly along said line from its intersection with the Southern line of West Thirteenth (13th) Street, being in the Northern line of a joint private drive, and in the Western line of said Lot Twenty-three (23), Block Thirteen (13); thence Eastwardly, parallel to West Thirteenth (13th) Street, 228.88 feet, more or less, to the Western line of the property conveyed the Chattanooga and St. Louis Railroad on November 14, 1879; thence Southwardly, along the said right-of-way passing the Southeast corner of said Block Thirteen (13), in the Northern line of what was formerly Frank Street, later West Fourteenth (14th) Street, continuing across said street and along the Eastern line of Lots Twenty-five (25) and Twenty-seven (27), Block Eighteen (18) in all 306 feet, more or less to the Northeastern corner of the property conveyed Starr Box and Printing Company on December 24, 1910, now G. W. Bagwell; thence Westwardly, along the Northern line of said property being the Southern line of a 10-foot private alley, 233 feet to the Eastern line of Boyce, now Chestnut Street; thence Northwardly along said Eastern line, being the western line of said Lots 27 and 25, across what was formerly Frank Street, continuing along Lot Twenty-three (23), 306 feet to the Point of Beginning.

Excepted from the above description is that portion conveyed by James C. Berry to Chestnut Properties, LLC by deed recorded in Book 9045, Page 434, in the Register's Office of Hamilton County, Tennessee.

Note: According the ALTA/ACSM Land Title Survey by Roger B. Rimer dated July 13, 2015, the above legal description describes the same property as the following legal description:

BEGINNING at a rod/cap found on the eastern right-of-way of Chestnut Street, having a width of 60 feet, and marking the southwest corner of the VMH Inc. property, as recorded in Deed Book 6094, page 665, in the Register's Office of Hamilton County, Tennessee; thence, leaving said right-of-way and along the southern line of said VMH Inc. property, South 65 degrees 37 minutes 24 seconds East 228.81 feet to a rod/cap set marking the southeast corner of said VMH Inc. property and being on the western line of Lot 1, City of Chattanooga Former CSX Property Subdivision as recorded in Plat Book 74, page 70, in said Register's Office; thence, along the western line of said Lot 1 the following two calls, South 19 degrees 22 minutes 34 seconds West 49.48 feet to a rod/cap set and South 24 degrees 02 minutes 23 seconds West 251.10 feet to a rod/cap set marking the northeast corner of the Chestnut Properties LLC property, as recorded in Deed Book 9045, page 434, in said Register's Office; thence, along the northern line of said Chestnut Properties LLC property, North 65 degrees 29 minutes 36 seconds West 233.38 feet to a Mag Nail set marking the northwest corner of said Chestnut Properties LLC property and being on the eastern right-of-way of said Chestnut Street; thence, along the eastern right-of-way of Chestnut Street, North 24 degrees 08 minutes 36 seconds East 299.87 feet to the Point of Beginning. Said tract herein described contains 1.604 acres or 69,864 square feet, more or less.

Being the same property conveyed to The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee from 1400 Chestnut LLC, by Limited Warranty Deed, dated April 27, 2016, filed of record in Book 10732, Page 765, in the Register's Office of Hamilton County, Tennessee.

ALSO BEING that same property leased to 1400 Chestnut LLC, pursuant to that certain Lease Agreement, dated April 27, 2016, executed by The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee filed of record in Book 10732, Page 766, in the Register's Office of Hamilton County, Tennessee.

AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

THIS AGREEMENT is made and entered into as of the ___ day of _____, 2015, by and among THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (the "Board"); 1400 CHESTNUT, LLC, a [Tennessee] limited liability company (the "Company"); the CITY OF CHATTANOOGA (the "City"); and HAMILTON COUNTY (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by WILLIAM F. HULLANDER and his successors, acting in the capacity of HAMILTON COUNTY TRUSTEE ("Trustee"), and by WILLIAM C. BENNETT and his successors, acting in the capacity of HAMILTON COUNTY ASSESSOR OF PROPERTY ("Assessor").

W I T N E S S E T H:

WHEREAS, the Company is contemplating the construction of apartments and other related facilities and improvements in downtown Chattanooga, to provide for approximately two hundred (200) residential units (collectively, the "Project"), and has requested the Board's assistance in the financing of the Project; and

WHEREAS, substantial public welfare benefits to the City and County will be derived from the Project; and

WHEREAS, the Board has agreed to take title to certain real and personal property that constitutes the Project, as described in Exhibit "A" attached hereto (the "Property"), which Property is to be owned by the Board and leased to the Company; and

WHEREAS, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, §48-101-301, et seq., all such property will be exempt from ad valorem property taxes ("property taxes") normally paid

to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, §48-101-312; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts to the general funds of the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the County Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall

appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, and the Company written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this agreement, the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board and the Company a bill for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill to be paid to the County and the Company shall pay to the City Treasurer the amounts on the Tax Bill to be paid to the City in accordance with the amount set forth below in Paragraph 4. The In Lieu Payments shall be made by the Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Company.

(a) Property Exclusive of Improvements. For each of the years 2017 and thereafter, the Company shall make payments with respect to the Property in an amount equal to

one hundred percent (100%) of all City and County annual ad valorem property taxes levied in the base year of 2015 (the "Base Year") on the value of the associated Property (land, buildings, etc.). The intent is for the City and County to continue receiving throughout the term of this Agreement all taxes assessed as to the value of the property in the Base Year exclusive of the improvements made in connection with the Project, which improvements are subject to the payment in lieu of tax obligations set forth in subsection (b), immediately below.

(b) Improvements. After construction of the Project is completed and the Assessor of Property has reassessed the then improved Property, the Company shall make In Lieu Payments in the amount required to satisfy the Hamilton County Schools portion of the property taxes that would be due on the improvements to the Property if it were subject to taxation (the "School Portion"), which the parties acknowledge and agree currently equates to [27.1%] of the amount of the total City and County taxes that would have been payable on the improvements to the Property if it were subject to property taxes. Additional In Lieu Payments on the improvements will be as follows:

Year	City General Fund[1]	County General Fund[1]	County School Fund[1]
2017 – 2026	0%	0%	100%
2027	20%	20%	100%
2028	40%	40%	100%
2029	60%	60%	100%
2030	80%	80%	100%
2031	100%	100%	100%

[1] – *The above percentages refer to the percent of the amount of taxes that would have been payable on the improvements to the Property if it were subject to property taxes.*

As noted above, during such years 2017 to 2030, the Company shall continue to pay the School Portion attributable to the Hamilton County Schools. For any periods before or after such 14-year period that the Property is owned by the Board, the Company shall make In Lieu Payments

in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Property if it were subject to property taxes.

(c) For each of the years 2017 to 2030, the Company shall make In Lieu Payments with respect to any commercial and/or retail portion of the Property in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the commercial and/or retail portion of the Property, if any, if it were subject to property taxes.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year before March 1 of the following year. All In Lieu Payments to the City and County shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make any In Lieu Payment when due, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount, for each month that each payment has been unpaid. Such one and one-half percent (1-1/2%) per month late charge amount shall accumulate each month and be payable so long as there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees, and if the Company should fail to pay all amounts and late charges due as provided hereinabove for more than two (2) years, the City or the County may, as to their respective In Lieu Payments, terminate the benefits of this Agreement and

thereafter require the Company to pay one hundred percent (100%) of the amount of taxes that would have been payable on the Property for so long as such payment default continues as determined by the Mayor of the City and the Mayor of the County. In the event of a disagreement between the parties concerning whether or not the Company has cured a default, a representative of the Company may request that the City and County, as applicable, each meet to determine whether such default has been cured, and the Company and the City or the County, as the case may be, shall meet promptly thereafter attempt in good faith to resolve such dispute. The Company may, in addition, file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

(c) If the Company should fail to reserve for lease at least twenty (20%) percent of the available units in the Project to persons whose income does not exceed eighty (80%) percent of the area median income as annually defined in the most recent guidelines published by the Department of Housing and Urban Development, then the City and the County reserve the right but are not obligated to adjust the terms and conditions of the tax abatement granted to the Company under this Agreement for the Tax Abatement Period by requiring the Company to pay an additional amount of the In Lieu Payments on the Property. The City and the County may then require the Company to pay an amount up to the difference between the amounts of the In Lieu Payments required pursuant to Paragraph 4 of this Agreement and the amounts that the Company would have paid using the pro-rated percentage of the affordable housing units associated with the Tax Abatement Period. The County and the City shall look solely to the Company for any repayment obligations.

6. Disbursements by the Treasurer and Trustee. All sums received by the Treasurer pursuant to Paragraph 4 for the benefit of the City general fund shall be disbursed to the general funds of the City in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County general fund shall be disbursed to the general fund of the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received by the Treasurer shall be placed into an account for the use and benefit of the City. All such sums received by the Trustee shall be divided into an account for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 4 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account for the educational use and benefit of the County schools. The parties acknowledge and agree that all disbursements to the City and County pursuant to this Agreement are in furtherance of the Board's purposes as set forth in Tennessee Code Annotated §7-53-305.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then it shall present evidence to the Assessor in favor of its position. Likewise, if the Company contests any

such computation, it shall present evidence to the Trustee in favor of its position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith to resolve any disputes as to appraisal, assessment or computation. If the Company and the Assessor or the Trustee are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Annual Report. The Company will provide, on or before January 31 of each calendar year during this Agreement, an annual report to the Board, the Mayor of the City, and the Mayor of the County, summarizing its investment in the Property and a certified rent roll. An independent audit of the annual report may occur if requested by the City or County during any calendar year of this Agreement.

9. Lien on Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

10. Term. This Agreement shall become effective on the date that the Board attains title to the Property and shall continue for so long as the Board holds title to any of the Property or the Company has made all payments required hereunder, whichever shall later occur.

11. Leasehold Taxation. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder. The Company agrees to cooperate fully with the Assessor in

supplying information for completion of leasehold taxation questionnaires with respect to the Property.

12. Stormwater Fees. In addition to other requirements under this Agreement, the Company shall be responsible for all stormwater fees assessed by the City of Chattanooga against the Real Property.

13. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered, if to the City or the Board, c/o Mr. Phillip A. Noblett, Suite 200, 100 E. 11th Street, Chattanooga, Tennessee 37402; if to the County, c/o Mr. Rheubin M. Taylor, County Attorney, Hamilton County Government, Room 204, County Courthouse, Chattanooga, Tennessee 37402-1956; if to the Company, 3221 Brookwood Road, Birmingham, Alabama 35223; if to the Trustee, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; and if to the Assessor, at his address at Hamilton County Courthouse, Chattanooga, Tennessee 37402; or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

14. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

15. Assignment. Except as provided in this Section, the Company may only assign this Agreement, or any part hereof, with the prior consent of the Mayor of the City, the Mayor of the County, and the Board. The Mayor of the City, the Mayor of the County and/or the Board shall not withhold such consent upon the occurrence of all of the following conditions: (i) there is no default under this Agreement at the time of the assignment, (ii) all requirements of the Company under this Agreement have been satisfied as of the date of the assignment, and (iii) any assignee agrees to provide proof of sufficient assets to fund the business plan for the Project and agrees to be bound by the terms of this Agreement from and after the date of assignment (the "Consent Requirements"). If the Company provides the Mayor of the City, the Mayor of the County and the Board (x) a certificate of an officer of the Company certifying that the requirements of (i) and (ii) have been satisfied and (y) proof of sufficient assets to fund the business plan for the Project and a copy of an assignment and assumption agreement pursuant to which the assignee agrees to be bound by the terms of this Agreement, the Mayor of the City, the Mayor of the County and the Board shall each have the option, upon at least seven (7) days' prior notice to the Company, to meet with a representative of the Company within forty-five (45) days of receipt of the Company's certificate for purposes of determining whether the Company has satisfied the Consent Requirements. Unless the Mayor of the City, the Mayor of the County and the Board meet with the Company and all state in writing within such forty-five (45) day period that the Company has not satisfied the Consent Requirements, the Company may assign this Agreement in accordance with the terms and conditions described in the Company's certificate without any further action of the Mayor of the City, the Mayor of the County and/or the Board. In the event that the Mayor of the City, the Mayor of the County and the Board timely state in writing that the Company has not satisfied the Consent Requirements, the Company and the assignee may, upon the Company's

request, appear before the City Council of the City, the Board of Commissioners of the County and the Board to request approval of such assignment pursuant to the terms of this Section, which consents shall not be unreasonably withheld. Upon satisfaction of the requirements of this Section, the assignment shall relieve the Company from liability for any of its obligations hereunder as of the effective date of the assignment.

16. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

17. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

19. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

20. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

[Signature Page Follows]

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

ATTEST:

By: _____
Secretary

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

By: _____
Chairman

1400 CHESTNUT, LLC

By: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

EXHIBIT "A"
TO AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

REAL PROPERTY

[INSERT LEGAL DESCRIPTION]

PERSONAL PROPERTY

All personal property used by the Company in connection with its housing facility located on the real property described above.