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ORIGINAL**

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City Clerk's Office  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
ELECTRONIC RECORDING  
20140140275,03/04/2014 04:59,  
DEVAGT1STNORWOOD-22-1-1--,N

**C-7945-3  
01/28/2014**

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**CITY OF GLENDALE, ARIZONA  
FIRST AMENDMENT TO DEVELOPMENT  
AGREEMENT FOR MULTIFAMILY  
HOUSING DEVELOPMENT UNDER THE  
NEIGHBORHOOD STABILIZATION PROGRAM III**

(Agreement C-7945-3)

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**(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)**

C-7945-3

WHEN RECORDED RETURN TO:

City of Glendale  
City Clerk  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
FOR MULTIFAMILY HOUSING DEVELOPMENT  
UNDER THE NEIGHBORHOOD STABILIZATION PROGRAM III**

This First Amendment to Development Agreement for Multifamily Housing Development under the Neighborhood Stabilization Program III ("Amendment") is entered this 28<sup>th</sup> day of January, 2014, by and between the City of Glendale, an Arizona municipal corporation ("City"), and Norwood Village, LLC, an Arizona corporation ("Developer").

**WHEREAS**, on February 28, 2012, the City entered into a Development Agreement for Multifamily Housing Development Under the Neighborhood Stabilization Program with Developer ("Agreement");

**WHEREAS**, as authorized by the United States Government under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) of 210 for the Neighborhood Stabilization Program ("NSP") that was originally established under the Housing Economic Recovery Act of 2008; under the Title III of Division B of the Housing and Economic Recovery Act, 2008 ("HERA") (Pub. L. 110-289, approved July 30, 2008), as amended by the American Recovery and Reinvestment Act of 2009 ("ARRA") (Pub. L. 111-005), approved February 17, referred to as the Neighborhood Stabilization Program ("NSP"), the City conveyed to Developer \$1,800,000 in NSP funds for the development and/or preservation of affordable rental properties in HUD-approved in its HUD-approved Community Development Block Grant ("CDBG") Consolidated Plan Substantial Amendment;

**WHEREAS**, the Developer desires to develop and/or preserve one hundred fifteen (115) multifamily living units ("Units," or individually a "Unit") for low-income households with incomes at or below 50 percent of Area Median Income ("AMI") ("Project"), and;

**WHEREAS**, the parties now desire to amend the Agreement to allow the Developer to use additional NSP III funds for construction costs for Norwood Village Apartments, Phase II ;

**WHEREAS**, the parties now desire to increase the payment to Developer under the Agreement to \$390,000 as defined below in new Section IV (A) "Payment";

**WHEREAS**, all other terms of the Agreement remain in full force and effect;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. SCOPE OF SERVICE

- A. Activities. Consistent with NSP requirements, the Developer will be responsible for undertaking the activities described in this Amendment and Exhibit A attached hereto. The Developer's scope of service shall include the following activities eligible under NSP:

1. Activity #1 Develop Project on Property.
2. Activity #2 Rent Units in Project to Qualified Families (as hereinafter defined).
3. Activity #3 Provide construction funding for Phase II of Norwood Village Apartment renovations.

IV. PAYMENT

- A. It is expressly agreed and understood that the total amount to be paid by the City to Developer is \$390,000. Prior to disbursement of any funds to the Developer, the City and Developer will execute a Deed of Trust and a Promissory Note.

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

CITY OF GLENDALE, an Arizona  
municipal corporation



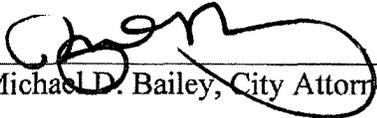
\_\_\_\_\_  
Brenda S. Fischer, City Manager

ATTEST:



\_\_\_\_\_  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

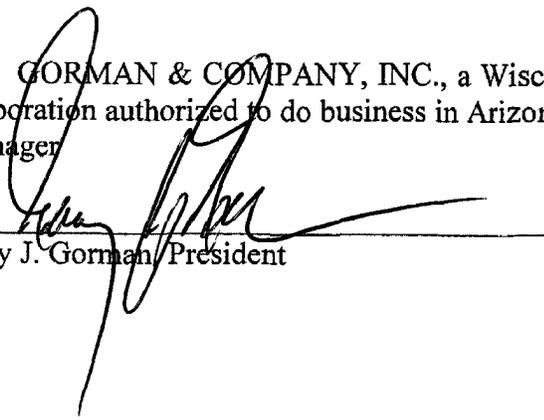


\_\_\_\_\_  
Michael D. Bailey, City Attorney

NORWOOD VILLAGE APARTMENTS, LLC, a Wisconsin limited liability company

By: NORWOOD VILLAGE APARTMENTS MM, LLC, a Wisconsin limited liability company, its managing member

By: GORMAN & COMPANY, INC., a Wisconsin corporation authorized to do business in Arizona, its manager

  
\_\_\_\_\_  
Gary J. Gorman, President

STATE OF WISCONSIN    )  
  ) ss.  
County of Dane            )

On this the 27 day of February 2014, before me, the undersigned Notary Public, personally appeared Gary J. Gorman, who acknowledged himself to be the President of Gorman & Company, Inc. and that he as such official, being authorized to do so, executed the foregoing Agreement for and on behalf of Gorman & Company, Inc., as manager of Norwood Village Apartments, MM, LLC, as member of Norwood Village Apartments, LLC, for the purpose and consideration therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

My Commission Expires

8-14-17

Do not destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before release and conveyance will be made.

**MEGAN E SCHUETZ**  
Notary Public  
State of Wisconsin

WHEN RECORDED, RETURN TO:

City of Glendale  
City Clerk  
5850 West Glendale Avenue  
Glendale, Arizona 85301

PROMISSORY NOTE  
DEFERRED LOAN

Loan Amount: \$390,000.00

Glendale, Arizona

Date January 28, 2014

FOR VALUE RECEIVED, the undersigned jointly and severally promise(s) to pay to the order of the City of Glendale, an Arizona municipal corporation (City), or its successors, the principal sum of Three Hundred Ninety Thousand Dollars and 00/100 (\$390,000.00). This Promissory Note ("Note") is made on a 10-year Deferred Loan, non-interest bearing basis on and is secured by a Deed of Trust and Assignment of Rents ("Deed of Trust").

This Note shall become due and payable upon any transfer, voluntary, involuntary, or by operation of law, of the Property identified in the Deed of Trust within ten years from the date of this Note, or at any time within ten years from the date of this Note undersigned ceases to occupy or use the property to provide Multifamily Housing Development. This Note is secured by a Deed of Trust executed by the undersigned naming the City of Glendale as Beneficiary; which Deed of Trust and this Note are security for the obligations of the undersigned contained in the Subrecipient Contract – Nonprofit Corporations Community Development Block Grant Program Physical Improvements executed by the parties on January 28, 2014.

The amount due at such time shall be the amount of the current fair market value of the property less any portion attributable to non-Community Development Block Grant ("CDBG") funds involved in the rehabilitation improvements to the Property. The current fair market value of the Property shall be established by independent appraisal. The portions of fair market value attributable to CDBG and non-CDBG funds shall be established at completion of the rehabilitation improvements through a subsequent appraisal. Appraisals completed to determine such values shall be at the sole cost and expense of the City.

If at the end of the term of this Note, the undersigned has continuously provided the services and complied with the provisions of the above referenced subrecipient agreement, the City shall consider the obligations of this Note to have been met and shall consider its security interest in the property to be released to the undersigned.

Should default be made in the payment of any amount when due, or should the undersigned default on any obligation owed to the City under the terms of this Note or the Deed of Trust providing security, therefore, the whole sum of principal shall become immediately due and payable at the option of the holder of this Note

If suit or action is instituted by City to recover on this Note, the undersigned agrees to pay reasonable attorney's fees and costs in addition to the amount due on the Note.

Diligence, demand, protest and notice of demand and protest are hereby waived and the undersigned hereby waives, to the extent which otherwise would apply to the debt evidenced by this Note. Consent is hereby given to the extension of time of payment of this Note, without notice.

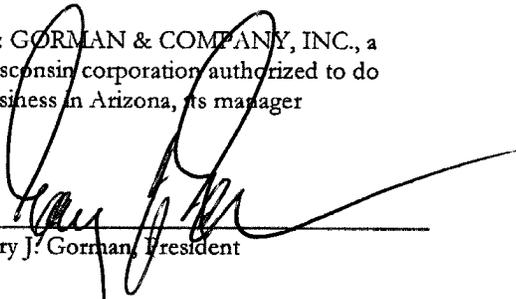
The undersigned reserves the right to repay at any time all of the principal amount of this Note in a single payment without the penalties, discount or premiums.

IN WITNESS WHEREOF, this Note has been duly executed by the undersigned, as of the date above written.

NORWOOD VILLAGE APARTMENTS, LLC, a  
Wisconsin limited liability company

By: NORWOOD VILLAGE APARTMENTS MM, LLC, a  
Wisconsin limited liability company, its managing member

By: GORMAN & COMPANY, INC., a  
Wisconsin corporation authorized to do  
Business in Arizona, its manager

  
\_\_\_\_\_  
Gary J. Gorman, President

STATE OF WISCONSIN        )  
  ) ss.  
County of Dane                )

On this the 27 day of February, 2014, before me, the undersigned Notary Public, personally appeared Gary J. Gorman, who acknowledged himself to be the President of Gorman & Company, Inc., and that he, as such official, being authorized to do so, executed the foregoing Note for and on behalf of Gorman & Company, Inc., as manager of Norwood Village Apartments MM, LLC, as member of Norwood Village Apartments, LLC, for the purpose and consideration therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

My Commission Expires:

8-14-17

MEGAN E SCHUETZ  
Notary Public  
State of Wisconsin

When recorded, mail to:  
CITY OF GLENDALE  
Neighborhood Revitalization  
5850 W. Glendale Avenue  
Glendale, AZ 85301

**RECAPTURE PROVISION  
DEED OF TRUST AND ASSIGNMENT OF RENTS**

DATE: January 28, 2014

TRUSTOR:  
ADDRESS: Norwood Village Apartments, LLC  
2375 East Camelback Road, 6<sup>th</sup> Floor  
Phoenix, Arizona 85016

BENEFICIARY:  
(ADDRESS): City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

TRUSTEE:  
(ADDRESS): First American Title Company  
National Commercial Services-  
24 Greenway Plaza, Suite 850  
Houston, Texas 77046

PROPERTY in Maricopa County, State of Arizona, described as:

**See the Legal Description set forth in "Exhibit A"  
attached and incorporated by this reference.**

This Deed of Trust is made between the Trustor, Trustee and Beneficiary above named.

WITNESSETH: That Trustor irrevocably grants and conveys to Trustee in Trust, with Power of Sale, the above-described real property, together with: (1) All buildings, improvements and fixtures now or hereafter placed thereon; (2) all existing leases, and all future leases executed with respect to such property; (3) all rents, issues, profits and income thereof (all of which are hereinafter called "property income"); (4) all classes of property now, or at any time hereafter, attached to or used in any way in connection with the use, operation or occupancy of such property; (5) all property, rights, permits and privileges now or hereafter owned by Trustor or now or hereafter appurtenant to such property, which entitle Trustor or such property to receive water or electrical power for use thereon; all property granted, transferred and assigned to Trustee hereunder is hereafter referred to as the "property," and Trustor warrants that it is well and truly seized of a good and marketable

title in fee simple to the real property hereby conveyed; that the title to all property conveyed by this Deed of Trust is clear, free and unencumbered, and Trustor shall forever warrant and defend the same unto Beneficiary, its successors and assigns, against all claims whatsoever; **SUBJECT, HOWEVER**, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; **AND SUBJECT TO** any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Beneficiary's interest in the property.

**FOR THE PURPOSE OF SECURING:**

(a) Performance of each agreement of Trustor herein contained. (b) Payment of the indebtedness evidenced by promissory note or notes of even date herewith, and any extension or renewal thereof, in the principal sum of **Three Hundred Ninety Thousand Dollars and 00/100 (\$390,000.00)** executed by Trustor in favor of Beneficiary or order. (c) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes that are secured by this Deed of Trust.

**A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:**

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon said property in violation of law; and to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To keep all improvements now or hereafter erected on said property continuously insured against loss by fire or other hazards specified by Beneficiary in an amount not less than the total obligation secured hereby. All policies shall be held by Beneficiary and be in such companies as Beneficiary may approve and have loss payable first to Beneficiary, as his interest may appear and then to Trustor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured and in such order as Beneficiary may determine or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default hereunder nor cause discontinuance of any action that may have been or may thereafter be taken by Beneficiary or Trustee because of such default.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary or Trustee, including cost of evidence of title and attorney's fees in a reasonable

sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary to enforce this Deed of Trust.

4. To pay before delinquent, all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees, and expenses of this Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any Deed of Partial Release and Partial Reconveyance or Deed of Release and Full Reconveyance and all lawful charges, costs, and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligations secured hereby.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: 1) Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; 2) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; 3) pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, 4) in exercising any such powers, pay necessary expenses, employ counsel, and pay his reasonable fees. All amounts so paid, together with interest thereon at the same rate as is provided for in the note secured by this Deed of Trust or at the highest legal rate, whichever is greater, shall be part of the debt secured by this Deed of Trust and a lien on the above property.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note secured by this Deed of Trust or at the highest legal rate, whichever is greater. Any amounts so paid by Beneficiary or Trustee shall become part of the debt secured by this Deed of Trust and a lien on said property and immediately due and payable at option of Beneficiary or Trustee.

**B. RECAPTURE PROVISION:**

The HOME Investment Partnerships (HOME) Program, and Neighborhood Stabilization Program (NSP III) under 24 CFR §92.254, requires that housing provided through these funds must be secured for the use of low-income households for a period of affordability. The period of affordability period is determined based on the amount of the HOME/NSP III subsidy.

Under the HOME/NSP III regulations, recapture is the option which will be used to control the recovery of the HOME/NSP I fund investment in a property during the affordability period.

Utilizing the recapture provisions of the HOME/NSP III regulation, the fair return to the seller will be calculated based on the net proceeds from the sale and the amount of the original HOME fund investment in the property. The HOME/NSP III subsidy shall be recoverable any time the property is sold before the expiration of the affordability period. The method that will be used to calculate the fair return and the HOME/NSP III subsidy to be recovered shall be detailed in the Deed of Trust and Promissory Note for the property. If the affordability period has been satisfied, the seller will be entitled to all net proceeds from the sale of the property.

In the case of a foreclosure or foreclosure sale, the period of affordability shall be terminated. Upon receipt of the notice that a foreclosure is pending the Beneficiary shall take positive steps to assert rights to a share of the proceeds from the foreclosure sale. The Beneficiary shall, to the extent feasible, recapture the original HOME/NSP III investment. If the Trustor has failed to make payment to the first mortgage holder, the Beneficiary will not be obligated to correct any deficient payment. The amount recaptured shall be based on the amount of the net proceeds from the foreclosure sale. If no proceeds are generated, the HOME investment shall not be recaptured. The method that will be used to calculate the amount of the recapture funds shall be detailed in the Deed of Trust and the Promissory Note.

If the original owner ceases to utilize the property as stated in agreement, voluntary or involuntarily, or upon dissolution of the Trustor, the original HOME investment shall become due and payable. The method that will be used to calculate the amount of the recaptured funds shall be detailed in the Deed of Trust and Promissory Note. The Beneficiary, at its discretion, can elect to allow the owners to properly utilize the property for the remainder of the affordability period. If the affordability period has been satisfied, the Beneficiary shall, to the extent to necessary, task action to protect its investment.

If the owner is in default of the agreement, the Beneficiary has the right to allow a non-profit partner to exercise a different but approved recapture/resale provision, if in the best interest of the program and the customer. Failure to take action may result in the Beneficiary exercising its right to foreclose in order to satisfy the contract and comply with federal requirements.

**RESTRICTED PARCELS; APPROVAL OF LEASES.** In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units codes, covenant, and restrictions and/or of the Agency has to approve the individual lease or lease form for the Restricted Units. The following numbers of Units are restricted for each respective funding source. The initial rents for the respective units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the respective units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to

the rental of the units, as may be required in determining the rents for the applicable funding sources. Only units indicated under Agency Funding Source are assisted by the Agency. Nevertheless, Owner shall assure the affordability of all of the following units at the named affordability levels.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Rent per Unit per Month:
NSP III		Up to 50% of area median income	-13-	Floating (8) Eight-Two Bedroom and (3) Three Bedroom	2-BR-\$600.00 3-BR-\$750.00

**TERM.** The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be **fifteen (15) years** from the Effective Date.

**C. IT IS MUTUALLY AGREED:**

1. That any award of damages in connection with any condemnation or any taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto Trustor, however, the right to sue therefore and the ownership thereof, subject to this Deed of Trust), and upon receipt of such moneys Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2. That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay. Without affecting the obligation of Trustor to pay and perform as herein required; without affecting the personal liability of any person for payment of the indebtedness secured hereby; and without affecting the lien or priority of lien hereof on the Trust Property, Beneficiary may, at its option, extend the time for payment of said indebtedness, or any part thereof, reduce the payment thereon, release any person liable on any of said indebtedness, accept a renewal note therefore, modify the terms of said indebtedness, take or release other or additional security or join in any extension or subordination agreement. Any such action by Beneficiary or the Trustee at Beneficiary's direction may be taken without the consent of any junior lien holder, and shall not affect the priority of this Deed of Trust over any junior lien. Time is of the essence of this Deed of Trust.

3. That at any time or from time to time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note(s) for endorsement, and without liability therefore and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or any part of said property; (b) consent to the making and recording, or either, of any map or plat of the property or any part thereof; (c) join in granting any easement thereon; or (d) join in or consent to any extension agreement of any agreement subordinating the lien, encumbrance or charge hereof. Any Trustor signing this Trust as a surety or accommodation party or that has subjected its property to this Trust to secure the debt of another, expressly waives the benefits of A.R.S. § 12-1641.

4. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note(s) to Trustee for cancellation and retention, and upon payment of its fees, Trustee shall release and reconvey, without covenant or warranty, express or implied, the property then held hereunder, the recitals in such reconveyance, of any matters or facts, shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

5. That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power, and authority, during the continuance of this Trust, to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. Upon any such default Beneficiary may at any time, without notice either by person, by agent, or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of the Trustor, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such property income, including that past due and unpaid and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees of Beneficiary and Trustee, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such property income, and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice. Beneficiary shall expressly have all rights provided for in A.R.S. §§ 33-702B and 33-807.

6. That upon default by Trustor in the payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold said property under this Deed of

Trust. Beneficiary also shall deposit with Trustee this Deed of Trust, said note(s), and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in the manner required by law, and after the lapse of such time as may then be required by law, Trustee shall sell, in the manner required by law, said property at public auction at the time and place fixed by it in said notice of Trustee's sale to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee at its discretion may postpone or continue the sale from time to time by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to such purchaser its Deed conveying the property so sold, but without any covenant or warranty, expressed or implied. Any persons, including Trustor, Trustee or Beneficiary, may purchase at such sale. The purchaser at the Trustee's sale shall be entitled to immediate possession of the property as against the Trustee or other persons in possession and shall have a right to the summary proceedings to obtain possession provided in A.R.S. §§ 12-1171 *et seq.*, together with costs and reasonable attorney's fees.

After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney's fees of Beneficiary and Trustee, Trustee shall apply the proceeds of sale to payment of: all sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. §33-812. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgment for any balance due hereunder. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Beneficiary shall also have all other rights and remedies available to it hereunder and at law or in equity. All rights and remedies shall be cumulative.

7. That Beneficiary may appoint a successor Trustee in the manner prescribed by law. Trustor and Beneficiary authorize Trustee, in the event any demand or notice is made or tendered to it concerning this trust or the property, to hold any money and documents and to withhold action or performance until an action shall be brought in a court of competent jurisdiction to determine the rights asserted or the property of the demand, notice or action requested and Trustee shall be without liability or responsibility for awaiting such court action. A Successor Trustee herein shall without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers, and duties. Trustee may resign at any time by mailing or delivering notice thereof to Beneficiary and Trustor and having so resigned shall be relieved of all liability and responsibility to Trustor, Beneficiary or otherwise hereunder. "Trustee" herein shall include all successor trustees. Trustee shall not be liable for any action taken in its discretion and in good faith, or upon advice of counsel, or upon any information supplied or direction given by Beneficiary. Unless Trustee is adjudged grossly negligent or guilty of intentional wrongdoing or breach of contract, Trustor and Beneficiary will, upon demand, indemnify and hold harmless Trustee against all costs, damages, attorney's fees, expenses and liabilities which it may incur or sustain in connection

with this Deed of Trust or any foreclosure or sale hereof or any court or other action or proceeding arising here from.

8. That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the note(s) secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the contest so required, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

9. That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee may but is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

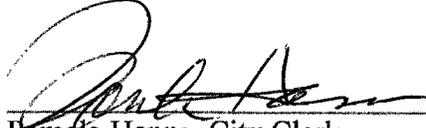
The undersigned Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to him at his address set forth above.

CITY OF GLENDALE, an Arizona  
municipal corporation



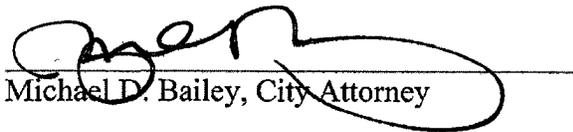
\_\_\_\_\_  
Brenda S. Fischer, City Manager

ATTEST:



\_\_\_\_\_  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael D. Bailey, City Attorney



**EXHIBIT A**  
(Property legal description)

**EXHIBIT "A"**

PARCEL NO. 1:

TRACT "A," GRANADA VISTA, ACCORDING TO BOOK 134 OF MAPS, PAGE 42 AND CERTIFICATE OF CORRECTION RECORDED IN DOCKET 8965, PAGE 235, RECORDS OF MARICOPA COUNTY, ARIZONA.

PARCEL NO. 2:

THAT PORTION OF THE ABANDONED ALLEY LOCATED TO THE WEST OF TRACT "A," GRANADA VISTA, ACCORDING TO BOOK 134 OF MAPS, PAGE 42, RECORDS OF MARICOPA COUNTY, ARIZONA, AS ABANDONED BY CITY OF GLENDALE ORDINANCE NO. 2019 RECORDED IN RECORDING NO. 98-0823776, LYING BETWEEN THE WESTERLY EXTENSION OF THE NORTH AND SOUTH LINES OF SAID TRACT "A."

**This Declaration is to be recorded separately.**

**DECLARATION OF DEED RESTRICTIONS**  
**For Norwood Village Apts located 6738 N. 45<sup>th</sup> Ave Glendale AZ 85301**

THIS DECLARATION OF DEED RESTRICTIONS (this "Declaration"), made and entered into as of January 28, 2014, 2014 by and between **Norwood Village Apartments, LLC**, a Wisconsin limited liability company (the "Owner") and **City of Glendale** (the "Lender");

**WITNESSETH**

In consideration of the mutual covenants and understandings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Owner and the Lender hereby agree as follows:

**Section 1. Definitions and Interpretation.** The following terms shall have the respective meanings set forth below:

"Deed of Trust" means the mortgage or deed of trust that secures the promissory note and FORGIVABLE LOAN AGREEMENT: HOME ASSISTED MULTIFAMILY RENTAL HOUSING (Exhibit A) and constitutes a lien on a fee simple interest in the Development and the Land.

"Development" means the residential housing unit(s) to be acquired, constructed or rehabilitated with the proceeds of the Mortgage Loan and to be located on the Land.

"Owner" means the party or entity that created the restrictions, conditions and covenants under which said land is subject.

"Subject property" means the real property described in Exhibit A attached to the Forgivable HOME Program Loan Agreement.

"Mortgage Loan" means the loan made to the Owner by the Lender to finance the acquisition, construction or rehabilitation of the Development.

"Note" means the instrument that contains the promise of the Owner to pay the sum of money stated therein at the time stated therein and that evidences the obligation of the Owner to repay the Mortgage Loan.

"Period of Affordability" means the period commencing on (i) the day on which the Project is acquired by Owner where no Mortgage Loan funds are earmarked for construction or rehabilitation, or (ii) the date of Project completion (as evidenced by a "Certificate of Compliance" issued by the appropriate governmental authority) where all or a portion of the Mortgage Loan funds are earmarked for construction or rehabilitation (the "Commencement Date") and ending on the date that is **20 years** after the Commencement Date.

"Regulations" means the rules and regulations promulgated by the Department of Housing and Urban Development in 24 CFR Part 92.

"State" means the State of Arizona.

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

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

**Section 2. Covenants, Conditions and Restrictions.** The Owner hereby represents, covenants, warrants and agrees that:

- (a) The Subject Property will be acquired, constructed or rehabilitated for the purpose of providing "affordable housing", as prescribed in 24 CFR Part 92.252; and
- (b) That, subject to the provisions of Section 4 below, the Development shall continue as "affordable housing" for the full Period of Affordability.
- (c) These deed restrictions are further stated and explained in the Forgivable Loan Agreement: HOME Assisted Multifamily Rental Housing attached hereto as Exhibit B and incorporated by this reference as if fully set forth herein.
- (d) To ensure that the Subject Property and Development remains as "affordable housing" throughout the Period of Affordability, the lender shall have the right of first refusal if Owner determines to sell or otherwise convey the property during the Period of Affordability.

**Section 3. Covenants to Run With the Land.** The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 4 hereof, shall pass to and be binding upon the Owner's heirs, assigns and successors in title to the Land or the Development; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Except as provided in Section 4 hereof, each and every contract, deed or other instrument hereafter executed covering or conveying the Subject Property or the Development or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If

a portion or portions of the Subject Property are conveyed, all of such covenants, reservations and restrictions shall run to each portion.

**Section 4. Term.** This Agreement shall remain in full force and effect until the expiration of the Period of Affordability; provided however, that this Agreement shall automatically terminate in the event of foreclosure or transfer of title by deed in lieu of foreclosure. In the case of foreclosure or transfer of title by deed in lieu of foreclosure or similar event, such termination will cease to be in effect if, at any time during the remainder of the Period of Affordability, the Owner of record immediately prior to the foreclosure or deed in lieu of foreclosure, or any newly formed entity that includes such former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Development or the Land.

**Section 5. Remedies; Enforceability.** If a violation of any of the provisions hereof occurs or is attempted, the Lender and its successors and assigns may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, to compel specific performance hereunder, or to recover monetary damages caused by such violation or attempted violation. The provisions hereof are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Owner or any other person or entity that has or had an ownership interest in the Development at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time or times.

**Section 6. Filing.** This Agreement shall be duly recorded in the Office of the Maricopa County Recorder.

**Section 7. Governing Law.** The laws of the State of Arizona shall govern this Agreement.

**Section 8. Amendments.** Except as provided in Section 4, this Agreement shall not be amended, revised, or terminated except by a written instrument, executed by the parties hereto or their successors in title, and duly recorded in the Office of the Maricopa County Recorder.

**Section 9. Notice.** Any notice required to be given hereunder shall be given by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

Owner: Norwood Village Apartments, LLC  
2375 East Camelback Road 6<sup>th</sup> Floor  
Phoenix, AZ 85016  
Phone: 602-708-4889  
Fax: 608-835-3922

Lender: City of Glendale  
Community Revitalization Division  
5850 W. Glendale Avenue #107  
Glendale AZ 85301

With Copy: City of Glendale  
City Attorney  
5850 West Glendale Avenue  
Glendale, AZ 85301

Notice shall be deemed given on the third business day after the date of mailing.

**Section 10. Severability.** If any provision hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

**Section 11. Multiple Counterparts.** This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

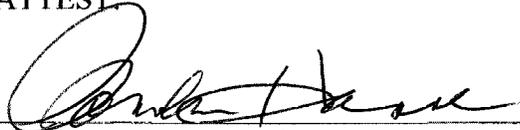
IN WITNESS HEREOF, the parties have hereunto set their hands.

CITY OF GLENDALE, an Arizona  
municipal corporation



\_\_\_\_\_  
Brenda S. Fischer, City Manager

ATTEST:



\_\_\_\_\_  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

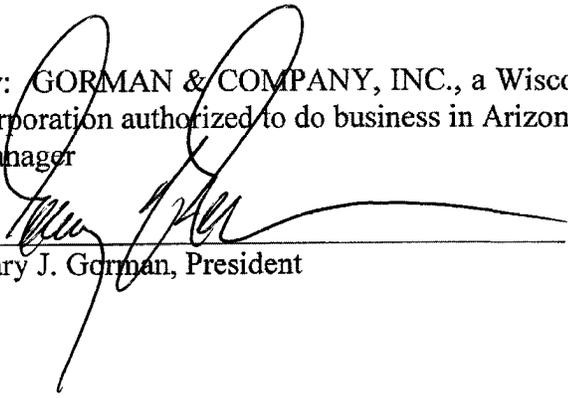


\_\_\_\_\_  
Michael D. Bailey, City Attorney

NORWOOD VILLAGE APARTMENTS, LLC, a Wisconsin limited liability company

By: NORWOOD VILLAGE APARTMENTS MM, LLC, a Wisconsin limited liability company, its managing member

By: GORMAN & COMPANY, INC., a Wisconsin corporation authorized to do business in Arizona, its manager

  
\_\_\_\_\_  
Gary J. Gorman, President

STATE OF WISCONSIN    )  
  ) ss.  
County of Dane         )

On this the 27 day of February 2014, before me, the undersigned Notary Public, personally appeared Gary J. Gorman, who acknowledged himself to be the President of Gorman & Company, Inc. and that he as such official, being authorized to do so, executed the foregoing Agreement for and on behalf of Gorman & Company, Inc., as manager of Norwood Village Apartments, MM, LLC, as member of Norwood Village Apartments, LLC, for the purpose and consideration therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

My Commission Expires

8-14-17

