

COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF MADISON

<hr/> <p>Resolution No. 4093</p> <p>Authorizing the Community Development Authority to take necessary actions to develop 48 units of affordable housing at Wright Street, known as Truax Park Development, Phase 2, LLC.</p> <hr/>	<p>Presented <u>October 2, 2014</u></p> <p>Referred _____</p> <p>Reported Back _____</p> <p>Adopted <u>October 2, 2014</u></p> <p>Placed on File _____</p> <p>Moved By <u>Daniel Guerra</u></p> <p>Seconded By <u>Dean Brassler</u></p> <p>Yeas <u>5</u> Nays <u>0</u> Absent <u>2</u></p> <p>Rules Suspended _____</p> <hr/>
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The members of the Board of Commissioners of the Community Development Authority of the City of Madison, a public body corporate and politic organized under the laws of the State of Wisconsin (the “**Authority**”) hereby adopt the following resolutions, to be effective as of the date of adoption set forth above in connection with the development of forty-eight (48) housing units by Truax Park Development, Phase 2, LLC, a Wisconsin limited liability Company (“**Company**”), together with the associated appurtenances located at 1601 Wright Street, Madison, Wisconsin (collectively, the “**Project**”) as more particularly described in **Exhibit A** attached hereto.

Certain of the resolutions contained herein are resolutions adopted by the Authority on behalf of the Company. In so doing, the Authority, as managing member of the Company, does hereby adopt the following resolutions to be effective as of the date of adoption set forth above pursuant to the Company’s Operating Agreement, dated effective as of June 13, 2014 (the “**Operating Agreement**”) and Wisconsin law.

1. **RESOLVED**, that any and all notice to take any action in adopting the following resolutions is hereby waived pursuant to the Company’s Operating Agreement, the Authority’s organizational documents, and Wisconsin law.

2. **RESOLVED**, that the following actions of the Company taken prior to the date of adoption of these resolutions, be, and they hereby are, ratified, confirmed, and approved in all respects by the Authority as managing member of the Company:

a. Articles of Organization. The filing of the Articles of Organization of the Company with the Department of Financial Institutions of the State of Wisconsin;

b. Operating Agreement. Executing the Operating Agreement of the Company by and between the Company and the Authority;

c. Lease Option Agreement. Executing a lease option agreement dated January 28, 2013 along with any amendments thereto, by and between the Company and the Authority whereby the Authority grants an option to lease the Project to the Company;

d. Construction Loan Letter of Intent. Executing a construction loan letter of intent, dated September 18, 2013 and any extensions and/or amendments thereto, between the Company and U.S. Bank National Association (“**Construction Lender**”) for a construction loan in an amount up to \$6,000,000.00 (the “**Construction Loan**”);

e. Investor Commitment. Executing an equity investment commitment letter, dated June 24, 2013 and revised September 19, 2013, between the Company and U.S. Bancorp Community Development Corporation (“**U.S. Bancorp**”) and/or any affiliate of U.S. Bancorp (the “**Investor**”) in connection with the admission of the Investor as a member of the Company having a 99% interest therein; and

f. Other Actions. All other actions taken, and execution of all documents executed, by the Company in connection with the development, financing, or construction of the Project.

3. **RESOLVED**, that the Company be, and hereby is, authorized by the Authority, as its managing member, to take the following actions and sign the following documents (each without the Company’s seal), each related to the Project and each action to be taken under such terms and conditions as may be acceptable to the Chair and Secretary of the Authority in its capacity as the managing member of the Company (together, the “**Company Authorized Officers**”), and, as applicable, pursuant to contract, agreements, instruments, certificates, affidavits, and other documents as may be acceptable to the Company Authorized Officers:

a. Project Lease. Leasing the Project from the Authority under such terms and conditions of a capital lease to be executed by and between the Company and the Authority (the “**Lease**”), and executing and delivering in connection therewith assignment and assumption agreements and any other contracts, agreements, instruments, certificates and other documents acceptable to the Company Authorized Officers;

b. Mixed Finance Documentation. Executing and delivering a declaration of restrictive covenants, regulatory and operating agreement, and any other documents required by the United States Department of Housing and Urban Development (referred to as “**HUD**”) in connection with the Project;

c. Investor Documents. Negotiating and executing such agreements, certificates, instruments and other documents and to take such actions as may be necessary or advisable, to admit the Investor as a member of the Company, including, but not limited to, executing and delivering an amended and restated operating agreement of the Company, performing all of the Authority’s obligations as a managing member under the amended and restated operating agreement of the Company, executing and delivering a development services agreement, a company management agreement, and any other documents required by Investor in connection with the admission of the Investor as a Member of the Company;

d. Management Agreement. Executing and delivering a management agreement for the Project by and between the Company and the Authority whereby the Company agrees to appoint the Authority as the exclusive managing and leasing agent for the Project and the terms and conditions upon which the Company makes such appointment (the “**Management Agreement**”);

e. Construction Loan. Executing and delivering all documents required by the Construction Lender, or another lender approved by the Company Authorized Officers, as prerequisites to receiving the Construction Loan, including without limitation a loan agreement, promissory note, mortgage and security agreement, assignment of leases and rents, assignment of architect’s agreement and plans and specifications, assignment of construction contract and permits, environmental indemnity, and any other documents required by Construction Lender in connection with the Construction Loan;

f. \$920,000.00 Authority Loan. Executing and delivering a note and mortgage in connection with a loan from the Authority to the Company in an amount up to \$920,000.00 which will be amortized over 30 years at 2.70% interest;

g. \$288,000.00 Authority Loan. Executing and delivering a note and mortgage in connection with a loan from the Authority to the Company in the approximate amount of \$288,000.00 which will be amortized over 30 at 2.70% interest, along with an Affordable Housing Program Retention/Recapture Agreement For Rental Projects Using Low Income Housing Tax Credits (LIHTCs) in connection with the \$288,000.00 loan;

h. \$280,000.00 Authority Loan. Executing and delivering a note and mortgage in connection with a loan from the Authority to the Company in the approximate amount of \$280,000.00 which will be amortized over 30 at 2.70% interest;

i. \$40,000.00 Authority Loan. Executing and delivering a note and mortgage in connection with a loan from the Authority to the Company in the approximate amount of \$40,000.00 which will be amortized over 30 years at 3.06% interest (collectively, the above listed \$911,288.00, \$288,000.00, \$280,000.00 and \$40,000.00 loans are known as the “**Authority Loans**”);

j. Architect Agreement. Executing and delivering an architect agreement with Knothe & Bruce Architects, LLC, for design and construction administration of the Project improvements;

k. Construction Contract. Executing and delivering a construction contract with McGann Construction, Inc. for the construction of the Project improvements; and

l. Generally. Doing all other things, taking all other actions, and executing and delivering all other guaranties, contracts, agreements, instruments, certificates and other documents, as may be necessary or convenient, as determined by the Company Authorized Officers, to acquire, develop, finance, construct, or operate the Project, each in such form and under such terms and conditions as may be acceptable to the Company Authorized Officers.

4. **RESOLVED**, that the Company Authorized Officers be, and they hereby are, authorized and directed in the name and on behalf of the Company to execute, without attesting signature and without seal, and deliver any and all contracts, agreements, instruments, certificates or other documents, including each of those described above and each of those described in any of the documents described above, which they may determine to be necessary or convenient to implement the intendment of the foregoing resolutions, or any of them, any such determination to be conclusively evidenced by the doing or performing of any such thing or act or the execution and delivery of any such papers.

5. **RESOLVED**, that the following actions of the Authority taken prior to the date of adoption of these resolutions be, and they hereby are, ratified, confirmed, and approved in all respects by the Authority:

a. Articles of Organization. Executing the Articles of Organization of the Company and the filing of such Articles of Organization with the Department of Financial Institutions of the State of Wisconsin;

b. Operating Agreement. Executing the Operating Agreement of the Company by and between the Company and the Authority;

c. Lease Option Agreement. Executing a lease option agreement dated January 28, 2013 along with any amendments thereto, by and between the Authority and the Company whereby the Authority grants an option to lease the Project to the Company; and

d. Other Actions. All other actions taken, and execution of all documents executed, by the Authority in connection with the development, financing, or construction of the Project.

6. **RESOLVED**, that the Authority be, and hereby is, authorized to take the following actions and sign the following documents (each without the Authority's seal), each related to the Project and each action to be taken under such terms and conditions as may be acceptable to the Chair and Secretary of the Authority (together, the "**Authority Authorized Officers**"), and, as applicable, pursuant to contract, agreements, instruments, certificates, affidavits, and other documents as may be acceptable to the Authority Authorized Officers:

a. Subdivision Plat and Easement Agreement. Obtaining and recording a subdivision plat dividing the Project from other Authority owned real estate adjacent to the Project (the "**Plat**") and amending an easement agreement detailing the rights and responsibilities of the parties owning the lots identified in the Plat and adjacent real estate parcels as to access, utilities, parking and other such easements;

b. Project Lease. Leasing the Project to the Company under such terms and conditions of one or more capital leases to be executed between the Company and the Authority and executing and delivering in connection therewith assignment and assumption agreements and any other contracts, agreements, instruments, certificates and other documents acceptable to the Authority Authorized Officers;

- c. Mixed Finance Documentation. Executing and delivering a mixed finance amendment to ACC; declaration of restrictive covenants, regulatory and operating agreement, certifications and assurances, one or more partial releases of existing declarations of trust, and any other documents required by HUD in connection with the Project;
- d. \$288,000.00 First Wisconsin Bank & Trust Loan (FHLB/AHP). Executing and delivering a note, an affordable housing program retention/recapture agreement for rental projects using low income housing tax credits (LIHTCs), and a collateral assignment of real estate mortgage in connection with a loan from First Wisconsin Bank & Trust to the Authority in the approximate amount of \$288,000.00;
- e. \$280,000.00 City of Madison Loan. Executing and delivering a note and related documents in connection with a loan from the City of Madison to the Authority in the approximate amount of \$280,000.00;
- f. \$920,000.00 Authority Loan. Loan to the Company up to \$920,000.00, amortized over 30 years at 2.70% interest and evidenced by a note and secured by a mortgage on the Project;
- g. \$288,000.00 Authority Loan. Loan to the Company approximately \$288,000.00, amortized over 30 years at 2.70% interest and evidenced by a note and secured by a mortgage on the Project;
- h. \$280,000.00 Authority Loan. Loan to the Company approximately \$280,000.00, amortized over 30 years at 2.70% interest and evidenced by a note and secured by a mortgage on the Project;
- i. \$40,000.00 Authority Loan. Loan to the Company approximately \$40,000.00, amortized over 30 years at 3.06% interest and evidenced by a note and secured by a mortgage on the Project;
- j. Construction Loan. Executing and delivering all documents required by Construction Lender, or another lender approved by the Authority Authorized Officers, as prerequisites to the Company receiving the Construction Loan including one or more guaranties and indemnities to Construction Lender, guarantying the Company's obligations to Construction Lender related to the Construction Loan and subordinating the Authority's interest in the Project as to the Authority Loans to the Construction Lender;
- k. Management Agreement. Executing and delivering the Management Agreement;
- l. Sub-Management Agreement. Executing and delivering a sub-management agreement for 8 (eight) units of the Project (the "**Non-Public Housing Units**") by and between the Authority and Porchlight, Inc., a Wisconsin non-stock corporation ("**Porchlight**"), whereby the Authority agrees to appoint Porchlight as the exclusive managing and leasing agent for the Non-Public Housing Units and the terms and conditions upon which the Authority makes such appointment;

m. Investor Guaranties. Executing and delivering, on behalf of the Authority, the Amended and Restated Operating Agreement of the Company, the Development Services Agreement, the Company Management Agreement, the Guaranty, and any and all other contracts, documents and agreements in connection with the Company's obligations to the Investor pursuant to the Amended and Restated Operating Agreement of the Company; and

n. Generally. Doing all other things, taking all other actions, and executing and delivering all other guaranties, contracts, agreements, instruments, certificates and other documents, as may be necessary or convenient, as determined by the Authority Authorized Officers, to assist the Company in leasing, developing, financing, rehabilitating, or operating the Project, each in such form and under such terms and conditions as may be acceptable to the Authority Authorized Officers.

7. **RESOLVED**, that the Authority Authorized Officers be, and they hereby are, authorized and directed in the name and on behalf of the Authority to execute, without attesting signature and without seal, and deliver any and all contracts, agreements, instruments, certificates or other documents, including each of those described above and each of those described in any of the documents described above, which they may determine to be necessary or convenient to implement the intendment of the foregoing resolutions, or any of them, any such determination to be conclusively evidenced by the doing or performing of any such thing or act or the execution and delivery of any such papers.

EXHIBIT A

Truax Park Development, Phase 2 (48 units)

Commonly known as:

1601 Wright Street, Madison, Wisconsin 53704

To be described as:

Lots Four (4), Seven (7) and Eight (8), Truax Phase 2, in the City of Madison, Dane County, Wisconsin.

Currently described as:

Lot One (1) and part of Lot Three (3), Certified Survey Map No. 12976 recorded in the Office of the Register of Deeds for Dane County, Wisconsin on September 13, 2010, in Volume 82 of Certified Survey Maps, Page 327-337, as Document No. 4690854, located in the City of Madison, Dane County, Wisconsin.