



CITY COUNCIL MEETING AGENDA
TUESDAY AUGUST 20, 2019
REGULAR MEETING

CITY COUNCIL MEETING TIME: 6:30 PM

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the July 30, 2019 Regular City Council Meeting.
- b. Approval of City Council Minutes from the August 7, 2019 City Council Workshop.
- c. Approval of Accounts Payable; Checks Numbered 19039-19073.
- d. Approval of a Large Assembly Permit for Mama's Happy (7888 County Road 6) Fall Art Fair: September 12-14, 2019.
- e. Approval of a Medium Assembly Permit for Brian Gilbertson (7165 Turner Road) to Host a Hog Roast: September 21, 2019.
- f. **RESOLUTION NO. 19-0820-01** – Adopting the Proposed Assessment for the Lyndale Sanitary Sewer Improvements.

5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.

6. Reports of Boards and Committees by Council and Staff.

7. Director Gary Kroells, West Hennepin Public Safety:

- a. Activity Report for the Month of July 2019.

8. **PUBLIC HEARING:** Consideration to authorize the issuance of revenue bonds for the benefit of PHS Founders Ridge, Inc.; approving the execution of the revenue obligations and related documents; and taking other actions with respect thereto.

- a. **RESOLUTION NO. 19-0820-02** – Authorizing the issuance of revenue obligations for the benefit of PHS Founders Ridge, Inc.; approving the

execution of the revenue obligations and related documents; and taking other actions with respect thereto.

9. Consider Approval of an Amendment to the Tri-City Agreement Creating the Quad City Agreement to Allow Loretto to Connect to the City's Existing Sanitary Sewer Line.

- a. **RESOLUTION NO. 19-0820-03** – Approving the Quad City Agreement.

10. Open/Misc.

11. Adjourn.

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JULY 30, 2019 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Spencer, McCoy, Grotting and Betts

ABSENT: None

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas, City Attorney Vose, Public Works Supervisor, Shawn Bode

VISITORS: Lynda Franklin, Gina Piazza Ward

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the July 16, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19016-19038.
- c. Set Truth in Taxation Meeting Date for Tuesday December 3, 2019 at 6:00 PM.
- d. Approval of the Cystic Fibrosis Bike Ride Assembly Permit (Event Held on September 14, 2019).
- e. Approval of the Homes by Architects Tour Assembly Permit (Event Held on September 21 and 22, 2019).

Motion by Betts, second by McCoy to approve the Consent Agenda. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Lake Sarah Association Meeting and Picnic

Grotting attended the following meetings:

- Planning Commission Meeting

McCoy attended the following meetings:

- Welcome home reception for Ben Raskin

Betts attended the following meetings:

- Planning Commission Meeting

- Delano Senior Center get together for volunteers

Johnson attended the following meetings:

- Planning Commission Meeting
- 4 Community Theatre production of the Addams Family
- Lake Sarah Association Meeting and Picnic
- Welcome home reception for Ben Raskin
- Met with Ellie Howe who is interested in filing for the Orono School Board position
- Community Action Partnership for Hennepin County Board Meeting
- Met with Staff Members of Met Council Waste Commission
- Met with Ronan Bonavige about his Eagle Scout Project

Horner attended the following meetings:

- Met with Ronan Bonavige about his Eagle Scout Project

Kaltsas attended the following meetings:

- Met with Pioneer Sarah Creek Watershed Commission about what will happen next year, if they will hire a replacement for Jim Kijawa who is retiring. If he is not replaced there may be a consultant group hire for technical service.
- Kaltsas noted the Waste Water Quad City agreement will be replacing the Tri-City agreement.

7. Roger Pitts of 4330 Woodhill Drive Would Like to Discuss the Highwater Level on Lake Sarah.

Johnson asked Pitts what he would like to discuss. Pitts provided his research materials on the high-water levels of Lake Sarah and asked the Council to review and then address at a future date. Johnson said Staff would look at it and come back with their recommendations. Spencer noted the level today was 4 inches below the high-water level. He said Lake Sarah has been remarkably stable this year.

8. Consider Revocation of Conditional Use Permits No Longer in Use or Not in Compliance with Applicable Conditions of Approval.

a. RESOLUTION 19-0730-01

Kaltsas said the City has reviewed all the active conditional use permits over the last year and half. The City initially notified property owners of the intent and need to review the conditions of the conditional use permit and asked owners to contact the City to schedule an inspection. Following inspection of the majority of conditional use permits and or multiple attempts to inspect properties, it was recommended that a handful of conditional use permits be considered for revocation.

The City Council revoked several conditional use permits in February 2019 based on non-compliance or no longer being used by the property owner. One of the properties determined to be non-compliant (the City has not been contacted by the property owner to schedule an inspection and could only conduct a visual inspection from the public right of way) and without response to multiple notifications of non-compliance, was provided a final notice of the City's intent to consider revocation at the February 5th City Council Meeting. Unfortunately, it was mistakenly not included in the February resolution. That property is located at 3315 County Road 92 (PID: 09-118-24-34-0004). The property is currently in a non-compliant condition (conditional use permit resolution attached). A second property is being recommended for revocation

following non-use of the conditional use permit and failure to comply with applicable conditions by a designated date.

The property located at 4885 Perkinsville Rd. (PID: 24-118-24-41-0004) is not compliant and the conditional use permit is no longer in use (conditional use permit resolution attached). City Council is being asked to consider revocation of the following conditional use permits:

Leo Poole	3315 County Road 92	09-118-24-34-0004
Rachel Myskevitz	4885 Perkinsville Road	24-118-24-41-0004

Grotting asked if the Myskevitz property was sold would the new owner want the CUP? Kaltsas said it was clear that revocation is recommended due to non-compliance. Grotting noted the City has tried numerous times to get the Poole property to comply. Vose said that from a legal prospective the CUP's are set by statute and an ordinance that follows that statute. There is not a revocation statute but City's want to give land owners notice that revocation is being considered. Betts asked if the CUP went with the land or the owner. Vose noted they run with the land not the owner and it runs as long as it is compliant. Vose said a new owner should have a blank slate and new conditions would apply.

Vilie (Attorney) said he bought the property because it as a CUP for landscaping and snow plowing. He had heard it was not revoked. He did understand there had a been a long, messy history. Vilie has been cleaning up the property for two weeks by spending \$3000 on labor. He said there are five trucks, skid loaders and no employees. Vilie is planning to build a pole barn to put his equipment in and he wants to be a good neighbor. He will also be remodeling the home. McCoy said Vilie bought the property assuming the CUP was active, and the City could not revoke it now in good conscience. McCoy said he would like to see them work with Staff to get it into compliance.

Motion by Betts, second by Spencer to amend RESOLUTION 19-0730-01 with the deletion of the line pertaining to the Leo Poole property at 3315 County Road 92 /09-118-24-34-0004. Ayes: Johnson, Betts, McCoy, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Motion by Betts, second by McCoy to approve RESOLUTION 19-0730-01 with the deletion of the Leo Poole property at 3315 County Road 92 /09-118-24-34-0004. Ayes: Johnson, Betts, McCoy and Spencer. Nays: Grotting. Absent: None. MOTION DECLARED CARRIED.

9. Designate Replacement Council Member for the August 13, 2019 Loretto Fire Commission Meeting.

The date was changed for the Loretto Fire Department meeting and the Mayor is not able to attend. Councilor McCoy will attend.

10. Open/Misc.

11. Adjourn.

Motion by Spencer, second by McCoy and carried to adjourn the meeting at 7:44 p.m.

Respectfully Submitted,

Trish Gronstal/Recording Secretary

DRAFT

MINUTES OF A WORK SESSION OF THE
INDEPENDENCE CITY COUNCIL
WEDNESDAY AUGUST 7, 2019 –7:00 A.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a work session of the Independence City Council was called to order by Mayor Johnson at 7:00 a.m.

2. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Spencer, McCoy and Grotting

ABSENT: None

STAFF: City Administrator Kaltsas, Administrative Assistant Beth Horner, City Attorney Vose, Public Works Supervisor Bode

VISITORS: WHPS Chief Kroells, ABDO Andrea Worcester

3. General Administration

a. 2019 Budget

- o Preliminary Budget Review/Discussion
 - Police/Fire Budget Updates
 - Roadway Improvement Capital Planning

Kaltsas said Council is being asked to consider and provide direction relating to the preliminary budget goals. For the past two years, Council has directed staff to prepare a budget using a flat tax rate of 40%. ABDO, Eick & Meyers and staff have prepared a draft preliminary budget which reflects an overall increase of .61% or \$16,000.

Several highlights are as follows:

- The budget includes initial public safety increases prepared by all public safety entities. The City has received estimated budgets from the Loretto Fire Department and West Hennepin Public Safety. There have been no preliminary numbers provided by Delano or Maple Plain Fire at the time this report was prepared. The preliminary proposed 2019 public safety and fire contract amounts are as follows:

	2020	2019	2018	2017
Maple Plain Fire	N/A	250,684.00	215,401.00	185,344.00
Delano Fire	N/A	65,279.62	66,072.73	66,129.13
Loretto Fire	94,564.12	89,000.96	75,138.85	81,442.14
WHPS	1,145,343	1,119,531	1,118,860	1,089,303

- The City has PW capital equipment cash balance of approximately \$166,000 with an additional \$51,467 being transferred by year end (~\$215,000). Based on the capital equipment plan, the City is in the process of purchasing a new tandem axel vehicle in 2020. The City's capital equipment plan

projects how the City will be able to fund capital equipment purchases moving forward using a flat budget number of \$60,000 per year after 2020.

- Once again, the capital improvement plan for City Hall shows no significant expenditures until 2020. The budget continues to contemplate the City taking on a more robust overhaul of the mechanical systems and interior and exterior needs of the building in 2020. The 2006A GO bond issue will be expiring in 2020. It is anticipated that the City will capture the expiring debt by issuing new debt in 2020 (payable 2021) to upgrade City Hall. This could include upgrades to the front entrance, carpet and flooring, interior and exterior painting, new HVAC equipment for WHPS, community room upgrades and storage and garage space upgrades.
- The budget reflects a 2% cost of living increase. It should be noted that health insurance costs are increasing by 6-8%.
- The City has been working on preparation of a capital road improvement plan. This plan has three primary areas:
 1. Street Seal Coating (Chip Sealing)
 2. Gravel Road Tiling
 3. Bituminous Road Overlay/ Upgrade

Staff has been working to project/ prioritize needs for improving and maintain roads for a five-year period. From the information prepared in a draft format, it can be seen that the City would need to increase street funding by a significant amount in order to fully fund road improvement projects. While this information is very preliminary and the numbers conservative, staff would like to review the information provided in the packet and discuss possible ways to realize funding of the street capital improvement plan. The budget reflects a nominal/ token place holder for 2020 of \$8,000 in a new line item.

Johnson asked about the old tiling that was done and the seal not holding up. Kaltsas said Main Street was the first job and Ende had thought the sock was plugged. The tile does not fully work on Main Street but the other roads that have been done have been outstanding. Kaltsas said the thought is to re-tile the roads in 2020. Betts noted road priorities may change as extra traffic is considered once the projects begin. Kaltsas said the chip seal, tile and gravel numbers are conservative. Spencer noted interest rates are low right now so financing costs are reasonable.

Kaltsas said City Hall needs a new HVAC system and wondered about Council's thoughts on some cosmetic building improvements on areas that need repairs. He noted WHPS also needs more garage space. Betts said HVAC needs to be a priority. Kroells stated North Memorial Ambulance service is looking for bay so they can stop and stay as needed. It would entail the bay, wi-fi, bed, sofa and microwave and they would partner with WHPS. He said there is a 16-minute response time right now due to the time it takes them to respond and get out here. It would be beneficial to have an ambulance at the station.

Spencer said if some of the bonds roll off the HVAC and smaller overlays could be looked at getting taken care of first. Johnson said the Small Cities bill should go through next year and that should help us. Kaltsas noted that tax base alone won't be enough to fix the roads. McCoy asked if MnDOT would have any money available due to using our local roads when they close Highway 12 for construction. Kaltsas said if they use our roads than there may be a possibility of getting some funding.

Kaltsas said there will be one more budget meeting in September and have another draft to be adopted.

b. Quad City Agreement
 ○ Overview of Key Points

Kaltsas said the City has been working on an amendment to the Tri-City Agreement (will be called the Quad-City Agreement) in order to allow Loretto to connect to the City of Independence Force Main on County Road 19. The agreement is not yet finalized; however, there are several key points that should be discussed:

- The City has been working to understand the potential number of additional Independence units that could be connected to the system. The City has focused on lakeshore lots that have access to the sewer. Earlier this year the City determined that lakeshore lots that have the ability to connect to City sewer can be a minimum of 1 acre. Based on the conceptual subdivision of properties, (primarily along Independence Road) it was estimated that an additional 14-34 lots could be realized (see attached exhibit). The City also recognized that there are six properties on Windmill Dr. that are not connected to City sewer. Staff has been working with Medina to increase the number of connections included in the Quad City Agreement. Medina has stated that they would allow an additional 26 connections on top of the 289 agreed to in the Tri-City Agreement for a total of 315 connections (see attached breakdown).
- The City is working to determine how the Metropolitan Council will handle I&I. Independence and Loretto will be metered by the Metropolitan Council. Greenfield will not be metered by the Metropolitan Council and Independence connects to Medina at Perkinsville Road which will not be metered by the Metropolitan Council. This issue is still in the process of being resolved.
- Many of the costs associated with maintenance and repairs to the system will now be reimbursed by the Metropolitan Council. There is a cap on the total amount that will be reimbursed.
- The agreement has been modified to remove the reconstruction of the pipe under Sycamore Trail. The Metropolitan Council is including this replacement in their project.
- The Cities will continue to have a maximum daily flow that can be pumped into the system. Those daily flow numbers will reflect the increased number of units.

c. Pioneer Park Development

- The City has been talking with Orono/ Westonka Youth Soccer Association about the possibility of developing multi-purpose athletic fields in Pioneer Park. The City estimated costs for both a one field and a three field development option. Orono/ Westonka has had some additional discussions and asked the City to provide feedback on the possibility of allowing them to construct an indoor “field house” on the City’s property. The field house would be approximately 20,000 SF (see estimated footprint

on attached exhibit). The field house would have bathrooms that could also be used by the public along with a concessions space. Their idea would be to construct a pole building type structure that would look and feel like a horse barn. Staff would like to generally discuss this concept with Council.

Betts said it would be nice to see the park get used for something. Grotting asked if they would be responsible for maintenance of the building. Kaltsas said it could look like a land lease. Vose said there needs to be a look at programming as there are a lot of organizations that would like something like this. Spencer said it is interested and should be looked at as an option.

d. Zoning Ordinance Discussion

- The Planning Commission has been discussing possible updates to the zoning ordinance relating to the definitions for several land uses that have recently been interpreted to allow business activities somewhat associated with Agriculture, Horticulture and Forestry (see attached Planning Commission Staff Report). Planning Commissioners discussed this issue in more depth at their last meeting. One of the issues that was identified was that Independence has only two zoning districts outside of Commercial Light Industrial. Commissioners discussed the concept of adding several additional zoning districts to better categorize similar types of land uses. Having several additional land uses (i.e. shoreland, rural estate, etc.) would allow land uses of similar types to have permitted, conditional and interim uses that more closely relate to the size and or location of the subject property. Staff would like to generally discuss this concept with Council and whether or not the Planning Commission should consider looking more closely at this issue.

Betts said we need to look at problems that are affecting neighbors, but she does not want to add more layers or restrictions where there is not an issue. Spencer said we need to clean up some of these issues that happen through loopholes or interpretations of our Ordinances. He said it is better to prevent issues rather than spending money to fix them later. It can be a nice way to screen out requests and be more proactive. CUP's are in place so they can be controlled so they do not become a nuisance.

4. Adjourn

Mayor Johnson adjourned the work session at 9:04 a.m.

Respectfully submitted,

Trish Gronstal, Recording Secretary



NON-CITY ASSEMBLY PERMIT APPLICATION

Fees & Definitions:

200+ Attendees (Large Assembly) = \$100
100+ Attendees (Medium Assembly) = \$25
50+ Attendees (Small Assembly) = \$25

(Double fee for application received less than 10 business days prior to event).

Event Location: 7800 CR 6 Independence MN 55359
Type of event: Art Fair Number of people 4,000 Date Sept 12-14
☐ Residential ☒ Corporate ☐ Partnership ☐ Group or Association ☐ Other
(Business)

Event Holder's Name: Amanda Fick Address: Same
Contact Person: " Phone: 612-239-0318
2nd Contact Person: Scott Fick Phone: 612-281-5419

Security Plans: Need off duty police
Date West Hennepin Public Safety was notified of the event: 8/2/19

Severe Weather Plans (in the event of): _____

Sound Plans - amplification and sound control: Acoustic guitar
Outdoor Music ☒ Yes ☐ No - Starting Time 10 AM/PM, Ending
Time 5 AM/PM

Food and Concessions Plans: Dakota Junction

Vendor's name, address, and license number (copies of vendor license, insurance and permits
must be provided) Stephanie Bolles

Vendor Work #: 612-805-6300 Vendor Cell #: 952-479-1519

Serving Alcohol: Yes: ☒ No: ☐

Selling Alcohol: Yes: ✓ No: _____ (If selling alcohol contact the City for a Permit)

Restroom Provisions: How many? 8 - changed/served daily
Location: parking lot

Lighting - Type: None How many? _____
Location of lights: _____

\$1,000,000 Certificate of Liability Insurance-provide a copy: _____

Parking Plan: Please provide a site plan showing 1 parking space for each vehicle per 4 guests. If using adjacent property, written permission from property owners must be obtained.

8/3/19
Date

Amanda H. Fick
Signature of applicant

Date

Signature of applicant

Office Use Only

Application Received: 8/2/19 Application Fee: 100 Date Fee Paid: 8/2/19

Date \$1,000,000 certificate of liability insurance received: _____

Signature of City Official

Date

Signature of West Hennepin Public Safety

Date



RECEIVED

8-6-19

NON-CITY ASSEMBLY PERMIT APPLICATION

Fees & Definitions:

200+ Attendees (Large Assembly) = \$100
100+ Attendees (Medium Assembly) = \$25
50+ Attendees (Small Assembly) = \$25

(Double fee for application received less than 10 business days prior to event).

Event Location: 7165 Turner Road

Type of event: Hog Roast Number of people 125 Date 9-21-19

☒ Residential ☐ Corporate ☐ Partnership ☐ Group or Association ☐ Other

Event Holder's Name: Brian Gilbertson Address: 7165 Turner Road

Contact Person: Brian Gilbertson Phone: 612-597-5971

2nd Contact Person: Renee Gilbertson Phone: 651-357-5700

Security Plans: off-street parking, request patrol stop by

Date West Hennepin Public Safety was notified of the event: 8/6/19

Severe Weather Plans (in the event of): Move inside barn

Sound Plans - amplification and sound control: 4 person live band

Outdoor Music ☒ Yes ☐ No - Starting Time 6 AM/PM Ending
Time 9 AM/PM

Food and Concessions Plans: Private food / pot luck

Vendor's name, address, and license number (copies of vendor license, insurance and permits
must be provided)

Vendor Work #: _____ Vendor Cell # _____

Serving Alcohol: Yes: X No: _____

key of beer

763-479-0527 (Phone)

1920 County Road 90
Independence, MN 55359
www.ci.independence.mn.us

763-479-0528 (Fax)

Selling Alcohol: Yes: _____ No: X (If selling alcohol contact the City for a Permit)

Restroom Provisions: How many?

2 portable Location: next to garage
rest room

Lighting - Type: down cast stage lights How many? 4

Location of lights: front of barn

\$1,000,000 Certificate of Liability Insurance-provide a copy: provided

Parking Plan: *Please provide a site plan showing 1 parking space for each vehicle per 4 guests. If using adjacent property, written permission from property owners must be obtained.*

8/6/19
Date


Signature of applicant

Date

Signature of applicant

Office Use Only

Application Received: 8-6-19 Application Fee: 25.00 US Date Fee Paid: 8-6-19

Date \$1,000,000 certificate of liability insurance received: 8-6-19

Signature of City Official

Date

Signature of West Hennepin Public Safety

Date

City of Independence

Consider Approval of Lyndale Sewer Assessment

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: August 20, 2019

Discussion:

The City has received an proposal to upgrade the existing sanitary sewer system that serves Ox Yoke and the two adjacent residential properties (Lyndale Sanitary Sewer System). The City has had a series of meetings with Ox Yoke and the City's current operator of the existing mound system that serves the restaurant to discuss issues that are causing the system to not work properly. The concentration of the discharge (CBOD and TSS) from the system is too high to be handled by the existing system. The City has been working with a company named Septic check to design an upgrade to the existing system that can handle the discharge. Septic Check from Milaca has prepared an estimate for the upgrade to the system for \$50,500 with an additional \$2,500-\$5,000 cost to upgrade the existing lift station control panels. The upgrade to the control panels will provide Septic Check with the ability to remotely monitor the system. The City believes that the proposed system provides the most cost effective and sustainable solution to address the sanitary sewer needs for this area moving forward.

Staff has discussed the proposed update with Ox Yoke based on direction previously provided by the City Council relating to funding for the project. At this time the owner is asking the City to assess a portion of the update costs to the Ox Yoke property. The City had initially discussed assessing 50% of the project cost to the property. The owner is asking for additional consideration to assess 70% of the project cost or \$35,000 to the property. The remaining balance (~\$15,000) will be paid up front by the property owner. In exchange for the additional assessment amount, the City would reduce the assessment period from to 5 years. Council provided direction to staff to move forward with an assessment of \$35,000 over five years. The City has prepared a detailed breakdown of the proposed assessment role for the property. The owner of Ox Yoke has agreed to waive any objection to the special assessment. This waiver agreement allows the City to proceed with adopting the assessment without any further hearings or discussion.

If approved, the sanitary sewer system upgrades will likely commence in September 2019. The City will contract with Septic Check to design, install and regularly monitor the entire system. Independence staff will no longer maintain and or monitor the system. The cost of monitoring the system will continue to be charged to the users of the system via regular quarterly sewer charges.

Recommendation:

The City Council is being asked to consider **RESOLUTION 19-0820-01** approving the Lyndale Sewer Assessment. Council is also be asked to approve the proposed sewer improvement proposal from Septic Check in an amount not to exceed \$55,500 and authorize staff to execute a contract to install the improvements.

ATTACHMENTS: **RESOLUTION 19-0820-01**
 Assessment Role
 Septic Check Proposal for Sewer Improvements



**CITY OF INDEPENDENCE
RESOLUTION NO. 19-0820-01**

**A RESOLUTION ADOPTING ASSESSMENTS FOR THE
LYNDALE – SANITARY SEWER IMPROVEMENTS**

WHEREAS, the City has received a petition and waiver of objection to special assessment for the Lyndale sanitary sewer improvements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INDEPENDENCE, MINNESOTA:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. Such assessment shall be payable in equal annual installments extending over a period of 5 years, the first of the installments to be payable on or before the first Monday in January 2020 and shall bear interest at the rate of 5.00 percent per annum from the October 1, 2019. To the first installment shall be added interest on the entire assessment from the October 1, 2019 until December 31, 2019. To each subsequent installment, when due, shall be added interest for one year on all unpaid installments.
3. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the city treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution; and he/she may, at any time thereafter, pay to the city treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next succeeding year.
4. The administrator shall forthwith transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists of the county. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

This resolution was adopted by the city council of the City of Independence on this 20th day of August 2019 by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

ASSESSMENT ROLL FOR 261 COUNTY ROAD NO. 92 N. SANITARY SEWER SYSTEM IMPROVMENTS 2019

CITY OF INDEPENDENCE
UPGRADE ASSESSMENT RATE

\$35,000.00 per UNIT

#	PIN NUMBER	OWNER	ADDRESS	LOT	BLOCK	SUBDIVISION	UNIT	ASSESSMENT	DATE PAID	CHECK NUMBER
1	32-118-24-42-0020	James K Coleman	265 County Road No. 92 N. Independence, MN 55359	7	6	Lyndale Addition	1	\$35,000.00		

Individual Assessment Schedule
Constant Principal Method
Project: LYNDALDE SANITARY SEWER UPGRADE

Parcel:	Owner:	Lot:	Block:	Addition:
32-118-24-42-0020	James K Coleman	7	6	Lyndale Addition

Interest Start Date:	1-Oct-19
Repayment Period:	5 years
Interest Rate:	5.000%

	Assessments	Quantity	Unit Measure	Unit Price	Amount
a.	Street Impr.	1	EA	\$35,000.00	\$35,000.00
				Total Assessment	\$35,000.00

Year	Annual Payment	Principal Payment	Interest Payment	Principal Remaining
2019				\$35,000.00
2020	\$9,191.10	\$7,000.00	\$2,191.10	\$28,000.00
2021	\$8,400.00	\$7,000.00	\$1,400.00	\$21,000.00
2022	\$8,050.00	\$7,000.00	\$1,050.00	\$14,000.00
2023	\$7,700.00	\$7,000.00	\$700.00	\$7,000.00
2024	\$7,350.00	\$7,000.00	\$350.00	\$0.00
	\$40,691.10	Total of Annual Payments		



Wex Companies, Inc.

6074 Keystone Road

Milaca, MN 56353

320-983-2447

info@septiccheck.com

Estimate

ADDRESS

Mark Kaltsas

City of Independence

1920 County Rd. 90

Independence, MN 55359

ESTIMATE # 10220

DATE 07/29/2019

EXPIRATION DATE 08/29/2019

DIRECT CONTACT

Brian - brian@septiccheck.com

DESCRIPTION	RATE	QTY	AMOUNT
Septic system design an update for the pretreatment at the system that serves 3 households and Ox Yoke Resturant.			
Septic system design	2,000.00	1	2,000.00
Pump and clean existing multi-flo tanks, abandon multi-flo equipment except tanks, retrofit tanks with SMART TREAT high strength waszte pretreatment package, install new risers and lids on multi-flo tanks, install new 2500 gallon 2 compartment clarifier tank with sludge return pump and effluent filter on outlet, all pipe and fittings, machine time and labor, final grading and seeding.	48,500.00	1	48,500.00
Electrical connection (scope TBD at onsite meeting with city officals)	0.00	1	0.00
New duplex lift staiton control panel (scope TBD onsite meeting with city officals)	0.00	1	0.00
Terms: 50% down, balance due upon completion. Prices valid up to 30 days from estimate date.	0.00	1	0.00

p | 320-983-2447
e | info@septiccheck.com
w | www.SepticCheck.com

TOTAL

\$50,500.00

Thank you for considering Septic Check.

If you have questions about this estimate, please contact us.

Or, call now to schedule your service request.

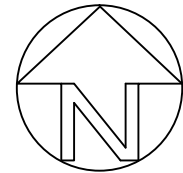
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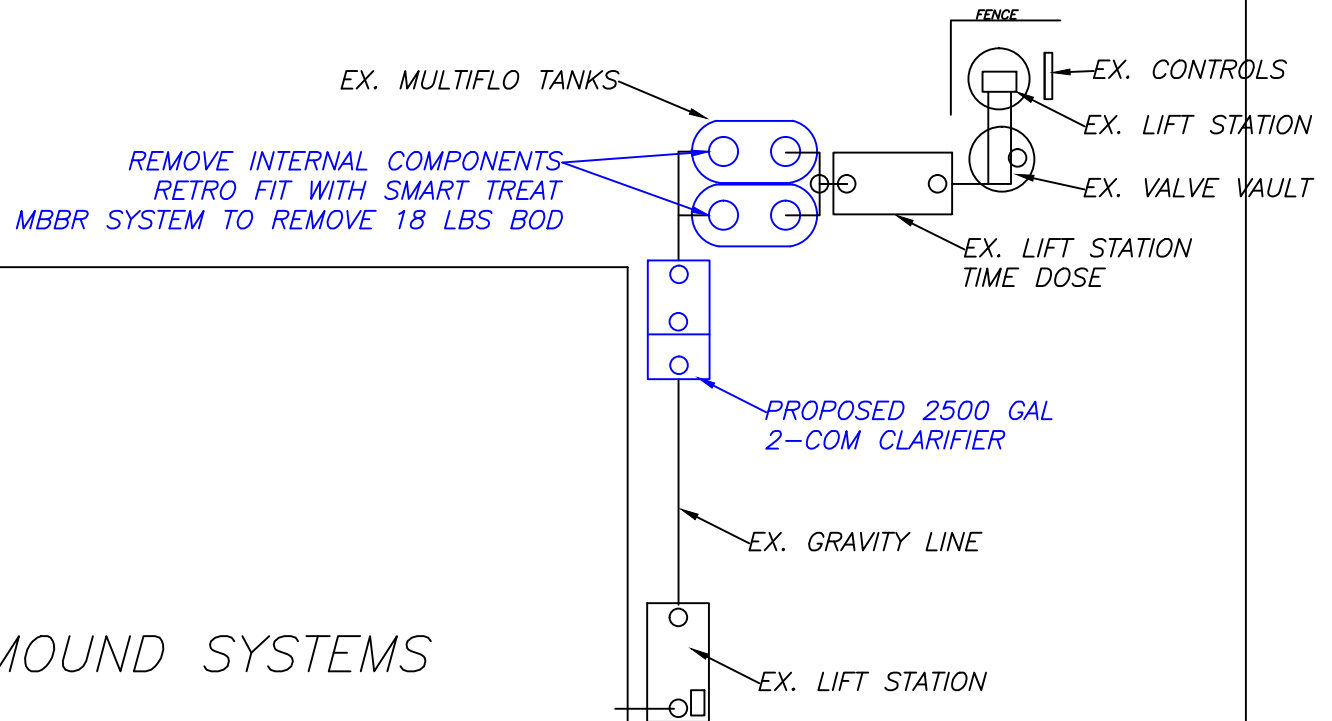
@SepticCheck

Accepted By

Accepted Date



SCALE - 1" = 20'



EXISTING MOUND SYSTEMS

PREPARED FOR:

OX YOKE

PROPERTY LOCATION
INDEPENDENCE, MN

LEGAL DESCRIPTION

SEPTIC CHECK
8074 KEYSTONE RD MILACA, MN 56353
(320)-983-2447 (FAX) (320)-983-2151

I hereby certify that this site plan was prepared by me or
under my direct supervision.

DATE
Brian Koski M. P. C. A. License # 2624 4/30/2018

PAGE TITLE

SHEET NUMBER

1 OF 1



Date: August 9, 2019

To: Public Safety Commissioners
City of Independence Council Members
City of Maple Plain Council Members

From: Director Gary Kroells *GK*

SUBJECT: JULY 2019 ACTIVITY REPORT

The purpose of this report is to give the reader a quick overview of the activities of the Public Safety Department each month. It also compares monthly and year-to-date information to the reader.

The report is broken down into five categories, as defined by the Criminal Justice Reporting System.

CRIMINAL-- Criminal is broken down into Part I and Part II crimes.

Part I includes crimes against persons versus crimes against property; criminal homicide, forcible rape, robbery assault, aggravated assault, burglary -breaking or entering, larceny-theft, larceny analysis, motor vehicle theft and arson.

Part II includes other assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, buying, receiving, possession; vandalism, weapons, carrying, possessing, etc.; prostitution and commercialized vice, sex offenses; drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses, suspicion, curfew and loitering laws - persons under 18; and runaways - persons under 18.

TRAFFIC-- Includes violations of the road and driving laws.

PART III-- Lost and Found: Includes lost and found persons, animals, and property, and stalled and abandoned vehicles.

PART IV-- Casualties: Includes all motor vehicle accidents, boating, and snowmobile; public home occupational accidents, fires, suicides, sudden deaths, burning permits, and burning violations.

PART V-- Miscellaneous Public: Includes open doors, gun permit applications, suspicious activities, animal complaints, motorist assists, alarm calls, parking complaints, house checks, driving complaints, civil matters, family disputes, department assists.

The balance of the report shows the total number of incidents handled, miles driven and how the Public Safety Department received calls. If anyone should desire more detailed statistical data, please contact my office.

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West Hennepin Public Safety Department
1918 County Road 90 / Maple Plain, Minnesota 55359
Phone: (763) 479-0500 / Fax: (763) 479-0504
Web Address: <http://www.westhennepin.com> E-mail: westhennepin@westhennepin.com

Monthly Activity Report July 2019

Offense	This Month	Same Month Last Year	This Year To Date	Last Year To Date
City Of Independence				
Criminal	14	12	54	84
Traffic	174	150	1,007	1,087
Part III	9	8	66	53
Part IV	25	26	277	221
Part V	138	159	923	978
Total City of Independence	360	355	2,327	2,423
City Of Maple Plain				
Criminal	7	8	37	36
Traffic	60	102	426	671
Part III	6	3	36	20
Part IV	15	22	120	149
Part V	119	156	663	874
Total City Of Maple Plain	207	291	1,282	1,750
Grand Total Both Cities	567	646	3,609	4,173
TZD	8	13	145	86
Agency Assists	14	32	140	205
Total ICR Reports	589	691	3,894	4,464
How Received				
Fax	2	9	52	87
In Person	21	30	193	188
Mail	0	5	6	11
Other	1	1	11	18
Phone	41	38	278	261
Radio	170	218	1,181	1,287
Visual	302	332	1,924	2,327
Email	14	11	49	35
Lobby Walk In	38	47	200	250
Total	589	691	3,894	4,464

July 2019 Criminal Part I & II

City of Independence Grid #'s 3-5

AGN	ICR	Title	Grid #	Reported Date	MOC range
WHPS	19003339	Forgery/ Electronic Funds	3	7/2/2019	U1200
WHPS	19003359	DANCO Violation	5	7/3/2019	N1390
WHPS	19003415	4th Degree DWI	5	7/6/2019	JGW01
WHPS	19003458	4th Degree DWI	3	7/8/2019	JGW01
WHPS	19003515	Theft	3	7/10/2019	T0229
WHPS	19003578	2nd Degree DWI	5	7/13/2019	JEW01
WHPS	19003641	Theft from Motor Vehicle	3	7/18/2019	TK991
WHPS	19003701	Felony 5th Degree Controlled Substance - Possession / Possession of Hypodermic Needle	5	7/20/2019	DH540
WHPS	19003770	Damage to Property	4	7/24/2019	P3119
WHPS	19003807	3rd Degree DWI	3	7/26/2019	JFW01
WHPS	19003817	Felony 1st Degree DWI / Felony 5th Degree Narcotics	3	7/27/2019	JDW01
WHPS	19003823	Assault	3	7/27/2019	A5353
WHPS	19003832	3rd Degree DWI / Possess Over 1.4 Grams Marijuana in Motor Vehicle	3	7/28/2019	JFW01
WHPS	19003853	Drugs-Small Amt of Marijuana in Motor Vehicle / Pharmacy - Drug Possession	5	7/29/2019	DC500

July 2019 Criminal Part I & II

City of Maple Plain Grid # 1-2

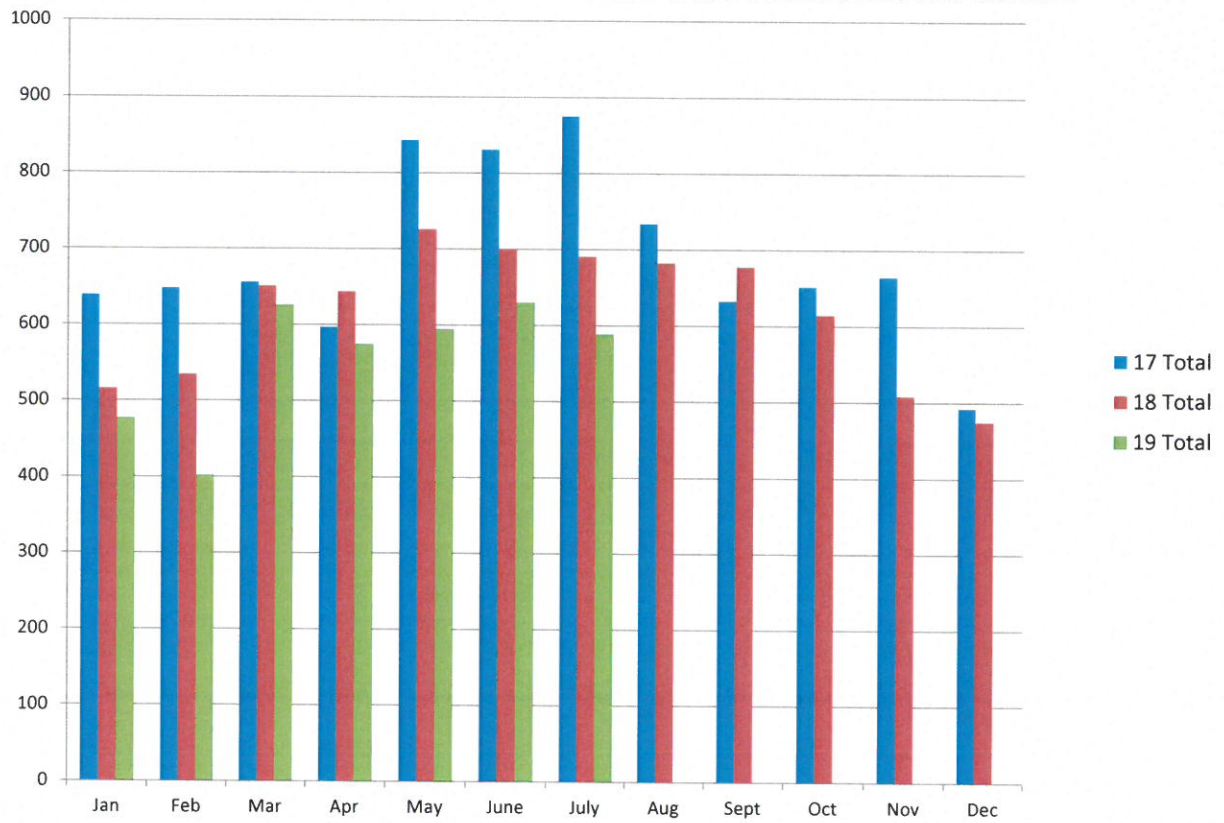
AGN	ICR	Title	Grid #	Reported Date	MOC range
WHPS	19003578	2nd Degree DWI / Open Bottle / Pharmacy - Drug Possession / DAR / Uninsured Driver	1	7/13/2019	JEW01
WHPS	19003673	4th Degree DWI - 5th Degree Controlled Substance Possession / Possession of Drug Paraphernalia / Open Bottle	1	7/18/2019	JGW01
WHPS	19003832	3rd Degree DWI / Possess over 1.4 grams Marijuana in Motor Vehicle	2	7/28/2019	JFW01
WHPS	19003848	Give Peace Officer False Name / 5th Degree Controlled Substance - Possession / Careless Driving	2	7/29/2019	DH570
WHPS	19003853	Drugs-Small Amt of Marijuana in Motor Vehicle / Drugs - Paraphernalia Possession	1	7/29/2019	DC500
WHPS	19003864	Felony 5th Degree Controlled Substance - Possession / Possess Ammo, Firearm /Firearms	2	7/30/2019	DH570
WHPS	19003866	Fraud Attempt / Stolen Check	1	7/30/2019	C09C2

July 2019 Criminal Part I & II

Towards Zero Death Grant Shift

AGN	ICR	Title	Grid #	Reported Date	MOC range
WHPS	19003807	3rd Degree DWI	65	7/26/2019	JFW01
WHPS	19003848	Give Peace Officer False Name/ 5th Degree Controlled Substance Possession /DAR / Careless Driving	20	7/29/2019	DH570

THREE YEAR COMPARISON OF POLICE CALLS FOR SERVICE & ACTIVITY



DIRECTOR'S NEWS & NOTES

WEST HENNEPIN PUBLIC SAFETY JULY 2019 Activity Report

Year to Date Activity Report

At the end of July 31, 2019 West Hennepin Public Safety (WHPS) handled year-to-date a total of 3,894 incident complaints. For the month of July; 360 incidents occurred in Independence and 207 incidents were in Maple Plain.

The Criminal Part I and Part II cases for both cities have been highlighted for your review on the attached documents.

Recent Highlighted Cases:

Welfare Check

July 1 1500 Howard Ave. Maple Plain. Social worker for the building called stating a resident had not been seen or heard from for 7 days. Officer entered the apartment; the TV was on very loud and did not find anyone inside. Everything looked orderly. Officer locked the door and advised the social worker of his findings.

Gas Odor

July 1 1400 Meadow Lane, Maple Plain. Officers received a call of the smell of gasoline in the house. Maple Plain Fire responded as well. It was found the resident had spilled some unleaded fuel outside earlier in the day while moving the lawn. MPFD checked the residence with a monitor and it was found to be safe.

Semi-Trailer detached

July 2 5900 Hwy 12, Maple Plain. A six axle semi-tractor trailer was east on Hwy 12 and the driver felt the trailer shift and observed the trailer coming off the semi. The king pin came unhooked, brakes locked up and it came to a rest on the shoulder. The driver was issued a citation for the trailer not properly engaged.

DANCO Violation

July 3 CR 50 /Roy Road, Independence. Vehicle stopped for a crack in the windshield running across the width of the windshield. Contact with occupants found the male passenger had a DANCO (Domestic Abuse No Contact Order) in place prohibiting contact with the female driver. Passenger Joseph Donald Smith, 52 Chaska was arrested and transported to Hennepin County Jail for the DANCO violation.

Solicit without a Permit

July 4 Dispatched to a report of a white male in a blue shirt soliciting for a pest control business near Three Oaks Ave and Main Street in Maple Plain. Solicitor located: Brady Lawrence Abbott, 27 Maple Grove who did not have a solicitor permit for Maple Plain. Abbott was cited for Soliciting without a Permit and was instructed to stop soliciting for the company in Maple Plain.

Property Damage Crash

July 5 1500 Wyman Ave. Maple Plain. Business reported a car had run into their building the night prior. The west exterior wall had significant damage. While speaking with the caller an employee said she had been cited by West Hennepin Police on her way to work. When she arrived at work, she was stressed out and mixed up the pedals in the car and drove into the side of the building.

DWI

July 6 Vehicle was north on County Line road from Co Rd 11, Independence and accelerated at a high rate of speed of 55/45 mph. Driver Coleman William McKinley admitted to drinking. McKinley submitted a breath test which resulted in .10 breath alcohol concentration. McKinley was arrested for 4th Degree DWI and released.

Domestic

July 6 900 CR 19, Independence. Girlfriend reported her boyfriend had been drinking all day and they were arguing during the evening. Female called the police because she didn't want things to get any worse. Both persons agreed to separate and leave each other alone for the night.

Civil Matter

July 6 10:48 p.m. 1700 Perkins Lane, Maple Plain, Female reported her fiancé left with her van and left her in Maple Plain. Police advised this was a civil issue and not a stolen vehicle. Female did not have a place to stay and requested a ride to Delano.

Recovered Stolen Mail

July 6 11:31 p.m. 1700 Perkins Rd. Resident provided West Hennepin Officer a large stack of mail she just found inside a trailer in her driveway. The items were postmarked July 1 - July 4 range from multiple locations from around Maple Plain. The case is under investigation and the suspect is currently on probation.

Property Damage Crash

July 7 Driver stated she was west on CR 11 by CR 92 when a raccoon ran up on the road. She tried to drive around it and the vehicle drove into the ditch hitting a utility pole. Wright Hennepin Electric responded and determined the power pole would need to be replaced. The driver was wearing her seatbelt and towing company removed her vehicle from the ditch.

4th Degree DWI

July 8 12:32 a.m. CR 90 / Pagenkopf Rd, Independence. Officer observed vehicle cross the center line. While attempting to catch up with the vehicle the driver turned right causing the vehicle to go into the ditch. Contact with driver, Logan Rocky Juusola 28, of Independence submitted a breath test which resulted in .13 Breath Alcohol Concentration. Juusola was arrested for 4th Degree DWI and released at his residence.

Crash PI

July 8 Vehicle 1 was traveling west on Co Rd 6 and had slowed down to turn into a driveway at 5700 block of CR 6, Independence. Her vehicle was rear-ended and driver 2 stated she had fallen asleep. Driver 2 admitted using her mom's car because her vehicle has "whiskey plates". Driver 2 stated the cops would have seen her "whiskey plates" and run them, and well "that would be just stupid." Ri'Zae Ann Colenda La'R Robinson, 23 Brooklyn Center was cited for Driving after Revocation, No Insurance on MV and Careless Driving. Both vehicles had damage and Vehicle 2 was towed from the scene.

Traffic Complaint

July 8 4900 Independence St Maple Plain. Reported an ongoing issue of several dirt bikes driving past caller's residence at high speed and appeared to not be registered vehicles. Possibly the riders are late teen's and have been driving in the area most evenings. Area was checked and vehicles GOA.

Chase/ Pursuit

July 9 8:53 p.m. Officer observed a motorcycle traveling west on Co Rd 6 at 76 mph / 50 mph zone. The officer attempted to catch up and stop the motorcycle, but it took off at high rate of speed. It continued west on Co Rd 6 into Carver County. The area was checked by several squads, which did not locate the driver or motorcycle. Motorcycle is blue and white (paint brush splatter type design), with a pulsating rear brake light. Driver was wearing a white and blue helmet that matched the motorcycle. Case under investigation.

Theft

July 10 400 CR 110, Independence. Business reported advertisement signs are being stolen from their construction sites. The temporary plastic sign is put in the ground to advertise they are drilling a well. Other signs next to theirs were not stolen. Recently they have had a problem at several locations, many outside WHPS area.

Suspicious Act

July 13 12:20 a.m. 1500 Baker Park Rd, Maple Plain. Vehicle was found occupied with a male sleeping in the back of the truck. The male stated he had reservations for Baker Park Campground for the following day and had arrived early. He was advised camping in the lot was prohibited.

Suicidal Male

July 13 5:36 p.m. Officer dispatched for a suicidal male at Vinland National Center, Independence. 25 yoa male from Coon Rapids stated he was feeling suicidal and had a plan. The male stated he ran out of depression medication 3 days ago and this is when things started to unravel. The male requested transport to the hospital. North Ambulance EMS responded and transported him to the hospital.

2nd Degree DWI

July 13 Driving complaint of a vehicle crossing lines and weaving in the lane of traffic westbound on Hwy 12 at County line Rd, Independence. Driver Evan Lee Knollenberg, 26 of Loretto submitted a breath test which resulted in .09 Breath Alcohol Concentration. Knollenberg was arrested, transported and booked into Hennepin Co Jail for 2nd Degree DWI, No Proof of Insurance and Open Bottle.

Property Damage Crash

July 14 Veh 1 was traveling WB on Hwy 12 at Halgren Rd, Maple Plain when his vehicle was rear-ended by Veh 2. Driver of Veh 2 stated he looked up from his GPS/Cell Phone and struck Veh 1. The GPS/Cell Phone was in a mount, attached to the air vents above his radio. Both vehicles had damage and both were drivable from the scene. Driver 2 was cited for Failure to Drive with Due Care,

Driving Complaint

July 14 Hwy 12 / Halgren Road, Maple Plain. Traffic complaint called in on a vehicle that was swerving and braking. Officer contact with the 30 yoa female driver from Minnetrista who had two kids in car seats and she was trying to reach a 'nuk' for one of them. Driver was advised of the crashes and dangers of Hwy 12.

Welfare Check

July 15 5200 Hwy 12, Maple Plain Caller requested a welfare check on a female she had driven around for errands on Friday. Caller had to physically assist the woman out of the taxi van and was concerned about her all weekend. Incident was called in three days later. Contact with the female who stated she was fine overall; except some medication she was prescribed makes her dizzy at times. The female stated she did not need any assistance.

House Lightning Strike

July 15 Dispatched to a house fire/lighting strike call at 6200 Waldemar Way, Independence. The homeowner smelled smoke in the residence after lightning struck their home. Maple Plain FD responded to the residence and checked the interior and exterior of the residence with no visible signs of damage at that time but a smell of something burned was evident inside of the residence. A short time later MP Fire was called back as the homeowner discovered a charred item and wanted it investigated.

Suspicious Activity

July 17 8:45 a.m. 4900 Hwy 12, Maple Plain. Maple Plain Bank called and was concerned about a person sleeping in a vehicle in front of the bank. Officer contact with the driver who advised he is a customer and was waiting for the bank to open at 9:00. He works nights and just got off work at 7. The bank was advised of the Officer findings.

Suspicious Act

July 18 12:49 a.m. 5100 Main Street, Maple Plain. On routine patrol an officer observed a vehicle parked behind a closed business. Lights were on inside the business and the rear door was unlocked. Officer announced himself and made contact with a male who was cooking food; stated they were behind on prep so he was cooking and catching up. It was obvious the male worked there and no issues were found.

Theft

July 18 18 Golf Walk, Independence. Reported a wallet, cash, passport, credit cards, were stolen from his vehicle that was left unlocked in the parking lot. The Case is under investigation.

Allergic Reaction

July 18 Vinland Center, 3675 Ihduhapi Trail, Independence. Victim had been stung by a bee and was suffering from labored breathing and exhibiting other signs of anaphylaxis. Staff administered an epi pen prior to Officer arrival. Loretto Fire and North Memorial EMS assisted the victim.

Broken Bones

July 19 Camp Ihduhapi, 3425 Ihduhapi Trail, Independence. Victim was on a floatable mat in the bay and was running along the mat and slipped, dislocating his knee. Loretto Fire hospital by ambulance.

Parking Complaint

July 19 Parking complaint in 5600 block of Lake Sarah Heights of 3 cars parked in front of a residence that the caller did not recognize. Officer located the vehicles, did not appear to be a hazard and believed a nearby homeowner had some friends over. No criminal activity found. Officer notified the caller of his findings.

Medical

July 20 Dispatched for a male having a seizure at Vinland Center 3675 Ihduhapi Trail, Independence. Upon arrival the patient was alert and oriented. He stated he had missed his 7pm anti-seizure medication. Memorial EMS arrived and took over patient care.

Warrant Arrest

July 20 8:22 p.m. Officer observed a 59 yoa male who had a known active warrant for 5th Degree Drug Possession, walk out of a residence 7900 CR 6, Independence. Officer instructed the male to stop and he was under arrest. The male continued to walk away, entered his residence and locked the door. A female exited the house and left the door open. Officer announced himself multiple times and the male came out from where he was hiding and surrendered. He was arrested, transported and booked in Henn Co Jail for his warrant.

Fall

July 21 48 yoa male from Medina was riding his bicycle west on County Road 6, Independence when the chain fell off his bike and he flew over his handlebars hitting his head. The male was wearing his helmet and became dizzy when sitting up. North Memorial EMS transported him to the hospital.

Business Alarm

July 23 2:50 a.m. Dispatched for a business alarm covering a gate entry of a closed business at 5000 Industrial Street, Maple Plain. Officer found the gate closed and a security magnet disconnected. Key holder responded and viewed the cameras and observed a male figure near the gate entrance. Case under investigation.

Medical / Unconscious

July 23 Officer and Delano Fire Rescue responded for a female who was lying on the ground and unresponsive at 3000 Lake Sarah Rd, Independence. Patient was located lying on the floor in the horse barn. Bystanders stated the patient was complaining of a headache prior to becoming weak and was ultimately unresponsive. No traumatic injury had occurred. North Memorial EMS arrived, took over treatment and transported the patient to the hospital.

Damage to Property

July 24 A vehicle drove onto the homeowners grass, left the property and went through the ditch, striking the mailbox, destroying it and the wooden post in 3800 CR 90, Independence. No other yards or mailboxes were damaged in the neighborhood. The case is under investigation. The suspect driver in this incident was arrested later that afternoon for killing his mother and severely injuring his father in Maple Grove.

Property Damage

July 25 CR 92 / Pioneer Rd, Independence Officer responding to property damage report. The driver said he was driving south on County 92, Independence and a car nearly hit him while trying to overtake him on the bridge. He moved over to avoid hitting the car and his tractor pulling a bailer and hay wagon struck the guard rail for the CR 92 Bridge over Pioneer Creek. The car had continued on. The bailer was damaged and the axle was broken in half and was towed from the scene. Hennepin County Public Works was notified and responded to repair the guard rail. The driver was able to attach the hay wagon to his tractor and remove both from the scene. Damage was over \$1,000.00.

Trespassing Complaint

July 25 8400 Hitsman Lane, Independence. Reported someone drove on the property in a John Deer Gator. The supervisor stopped the person and told him he couldn't drive on the property. The driver told the supervisor that's where they access the property while horseback riding and he has permission from the property owner. The property owner has not given anyone permission to be accessing the property on horseback. Property Owner requested advice on how to stop people from trespassing.

3rd Degree DWI

July 26 Driving complaint of a vehicle driven the wrong way on CR 92 / CR 6, Independence went into the ditch and struck trees. Driver Kelly Marie Mulvehill, 39 of Minneapolis submitted a breath test which resulted in .17 breath alcohol concentration. Mulvehill was arrested, transported and booked in Hennepin County Jail for 3rd Degree DWI.

Assault

July 27 Reported received of two males fighting on the roadside at CR 11 / CR 90, Independence. Officers responded and prior to arrival dispatch advised both parties had left. The area was checked and contact was made with an involved party who stated a vehicle passed him at a high rate of speed and he followed it. The vehicle pulled over and the driver got out, walked up to his vehicle and began punching him. Party denied injury however he had bruises to his face and cuts to his hands. Case under investigation.

3rd Degree DWI

July 28 Hwy 12/ Baker Park Rd, Maple Plain. Officer observed a vehicle make an illegal U-turn at Hwy 12 / Co 90, Independence. Vehicle was stopped and the driver showed signs indicating impairment. Driver Jordan Tyler Mills, 25 of St. Paul provided a breath test resulting in .16 breath alcohol concentration. Mills was arrested, transported and booked in Hennepin Co Jail for 3rd Degree DWI and Possession of Marijuana in Motor Vehicle.

Threat / 72 Hour Hold

July 28 Reported a male left Vinland Center, 3675 Ihduhapi Trail, Independence and was walking on CR 11. Officer located the 46 yoa male from North Branch. The male was very animated and appeared to be in a manic and psychotic state. The male was disruptive towards staff and had threatened to kill or injure himself. Staff agreed they didn't want the male charged; they wanted him to get help at the hospital. The male was transported by North Memorial EMS to the hospital on a 72 emergency hour.

Assist

July 29 Reported there were two homeless people causing a disturbance; they had slept overnight and were at Rainbow Park, Maple Plain. Officer found a daughter and mother were picking grass out of the sand volley ball court. There was a large pile of grass next to their vehicle. They were packing up their storage unit and needed packaging protection for their glass items and wanted to know if Maple Plain would let them take the grass. Officer found the two females were not homeless and had not slept overnight at the park. No criminal activity found

Suspicious Act

July 29 1800 Newport Street, Maple Plain. Caller reported 3 weeks ago a suspicious male was riding his bike around the apartment buildings, looking into windows and walking around. Other residents have seen him and told the male to leave as he does not live at the apartment building. WHPS posted a Crime Alert Notice inside the 5 buildings, 5285 Manchester, 1875, 1880, 1885 & 1890. The property owner was contacted and advised of the activity. A few days later the suspect was located, and he lives in the area. He stated he stands outside the apartment buildings and uses the free WIFI so he can access his social media accounts. He was issued a no trespassing order and is not allowed near the apartment complexes.

Traffic Complaint – Arrest

July 29 12:46 p.m. Hwy 12/ Halgren Rd, Maple Plain. Officer responded to a traffic complaint and located the suspect vehicle at the Holiday Gas Station. Contact with the driver, a 41-year-old female from St Paul, revealed she is driving on a revoked driver's license. The 45-year-old passenger from Buffalo provided false info to the police officer and the driver aided and abetted the false info. The vehicle smelled of marijuana. Passenger had a felony warrant and was arrested, transported and released to Wright County Sheriff's Office. A search of the passenger's purse at jail revealed 3 small pieces of crystal methamphetamine. Passenger charged with 5th Degree Controlled Substance. Female driver was arrested, transported and booked into Henn Co Jail. Charges: Give Peace Officer False Name and Driving after Revocation.

Traffic Complaint – Arrest

July 29 7:44 p.m. Caller reported a vehicle was driving reckless and tailgating and both vehicles were pulled over. Both drivers claimed the other was driving poorly. While speaking with the 23 yoa male driver from Delano, Officer detected an overwhelming odor of burnt marijuana coming through the passenger window and in plain sight a glass canning jar with large buds of a green leafy substance consistent with marijuana. Driver acknowledged it was marijuana and consented to a search of the vehicle. A search located marijuana and drug paraphernalia. The driver was cited for Small Amount of MJ in MV and Possession of Drug Paraphernalia. Both parties advised to adjust their driving behavior.

Weapons Narcotics Violations

July 30 Joyce Street / Wyman Ave, Maple Plain. Vehicle parked alongside the road and the male driver was getting into the passenger seat of the vehicle. The 27 yoa male driver from New Ulm had a suspended drivers' license and was wearing a parole ankle bracelet. An inventory search of the vehicle found several hand guns and drugs. Both were arrested, transported and booked into Henn Co Jail for Felony Firearms Possess w/Altered Serial Numbers and 5th Degree Controlled Substance. 2nd passenger a 30 yoa female from New Ulm was released to her sister.

Fraud Attempt

July 30 4900 Hwy 12, Maple Plain. Reported an attempt to cash a check on a closed account that had been closed due to fraudulent activity. Case is under investigation.

Welfare Check

July 31 Reported a male was walking in the roadway of CR 110 / CR 6, Independence. Contact with the male who was trying to get to a friend's house after running out of gas. The male was not making sense and showed the officer a scar on his belly from a recent surgery. The male agreed to go to Abbot NW hospital where he had his surgery and be evaluated. North Memorial EMS transported him to the hospital.

Utility Theft

July 31 5200 Independence Street, Maple Plan. Landlord reported one of his tenants had attached to a gas line of a neighboring tenant. The case is under investigation.

239 contacts of citations, verbal and written warnings were issued for traffic and equipment violations.

City of Independence

Consideration of a Proposal for the Issuance of Conduit Revenue Bonds

<i>To:</i>	City Council
<i>From:</i>	Mark Kaltsas, City Administrator
<i>Meeting Date:</i>	August 20, 2019

Discussion:

PHS Founders Ridge, Inc., a Minnesota nonprofit corporation (the “Borrower”), has requested that the City of Independence (the “City”) issue its revenue obligation in the maximum principal amount of approximately \$10,000,000 (the “Independence Note”) in order to finance a portion of the costs of the acquisition, construction, and equipping by the Borrower of approximately 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road in the City of Bloomington, Minnesota (the “Project”). The Borrower is also requesting that the City of St. Paul Park, Minnesota (the “City of St. Paul Park”) issue a revenue obligation in the maximum principal amount of \$6,500,000 (the “St. Paul Park Note”) and the City of Medina, Minnesota (the “City of Medina”) issue a revenue obligation in the maximum principal amount of \$10,000,000 (the “Medina Note”) to finance a portion of the costs of the Project. The City Council is being asked to adopt the attached resolution on Tuesday, August 20, 2019, following the public hearing, to provide final approval to the issuance of the Independence Note and approve the execution and delivery of related loan documents, including a joint powers agreement with the City of St. Paul Park, the City of Medina, and the City of Bloomington.

The Independence Note will be issued pursuant to Minnesota Statutes, Chapter 462C, as amended, and Minnesota Statutes, Sections 471.59 and 471.656, as amended. If the City agrees to issue the Independence Note, the Borrower will use the proceeds of the Independence Note, along with the proceeds of the St. Paul Park Note and the Medina Note, to finance the Project, finance capitalized interest during the construction of the Project, if needed, fund any required reserves, and pay costs of issuance of the Independence Note, the St. Paul Park Note, and the Medina Note (together, the “Notes”). The Project financed with the proceeds of the Notes will be owned and operated by the Borrower or its affiliates. The City of Bloomington, as the municipality in which the Project is located, has provided “host approval” to the issuance of the Notes to finance the Project.

The Independence Note is proposed to be privately placed with Choice Financial Group, a North Dakota corporation (the “Lender”) and will be issued as a conduit revenue bond secured solely by the revenues derived from a loan agreement (the “Loan Agreement”) to be executed by the City and the Borrower and from other security provided by the Borrower, including a mortgage, a security agreement and a guaranty. The Independence Note will not constitute a general or moral obligation of the City and will not be secured by or payable from any property or assets of the City (other than the interests of the City in the Loan Agreement) and will not be secured by any taxing power of the City. The Independence Note will not be subject to any debt limitation imposed on the City and the issuance of the Independence Note will not have any adverse impact on the credit rating of the City, even in the event that Borrower encounters financial difficulties with respect to the Project.

The Independence Note is proposed to be issued as a tax-exempt obligation, the interest on which is not includable in gross income for federal income tax purposes. Tax-exempt obligations are usually not eligible for purchase by banks and other financial institutions, but Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), permits each issuer of tax-exempt obligations to designate up to \$10,000,000 of tax-exempt bonds as “qualified tax-exempt obligations” (sometimes referred to as “bank-qualified bonds”) that are eligible for purchase by banks and other financial institutions. In order to issue bank-qualified bonds, the issuer must not expect to issue more than \$10,000,000 of bonds (other than private activity bonds that are not qualified 501(c)(3) bonds) in a calendar year. The Borrower has requested that the City designate the Independence Note as a qualified tax-exempt obligation for purposes of Section 265(b)(3) of the Code.

Under the terms of the Loan Agreement, the Borrower will pay all of the City’s fees and expenses and pay the City its administrative fee required for bond issuance.

The City of Independence does not have any planned projects for calendar year 2019 that would require the issuance of bank qualified general obligation bonds (G.O. bonds). The City is limited to issuing no more than \$10,000,000 per year of bank-qualified G.O. bonds.

The City has issued conduit revenue bonds in the past and would be compensated by a one-time fee of one-half of one percent (~\$45,000). In addition, the Borrower shall pay to the City any and all costs incurred by the City in connection with the Bonds or the financing of the Project.

Recommendation:

The City Council is being asked to consider **RESOLUTION NO. 19-0820-02**, granting approval for the issuance of the conduit revenue bonds.

ATTACHMENTS: **RESOLUTION 19-0820-02**
 Assignment of Loan Agreement
 Form of Note
 Cooperative Agreement
 Loan Agreement



**CITY OF INDEPENDENCE
RESOLUTION NO. 19-0820-02**

**RESOLUTION AUTHORIZING THE ISSUANCE OF REVENUE OBLIGATIONS FOR
THE BENEFIT OF PHS FOUNDERS RIDGE, INC.; APPROVING THE EXECUTION OF
THE REVENUE OBLIGATIONS AND RELATED DOCUMENTS; AND TAKING
OTHER ACTIONS WITH RESPECT THERETO**

BE IT RESOLVED by the City Council (the “City Council”) of the City of Independence, Minnesota (the “City”), as follows:

Section 1. Findings.

1.01. Minnesota Statutes, Chapter 462C, as amended (the “Act”), authorizes the City to carry out the public purposes described in the Act by providing for the issuance of revenue bonds to provide funds to finance multifamily housing developments.

1.02. Pursuant to Minnesota Statutes, Section 471.656, as amended, a municipality may issue obligations to finance the acquisition or improvement of property located outside of the corporate boundaries of such municipality if the obligations are issued under a joint powers agreement between the municipality issuing the obligations and the municipality in which the property to be acquired or improved is located. Pursuant to Minnesota Statutes, Section 471.59, as amended, by the terms of a joint powers agreement entered into through action of their governing bodies, two or more municipalities may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised and the joint powers agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units.

1.03. PHS Founders Ridge, Inc., a Minnesota nonprofit corporation, or any of its affiliates (collectively, the “Borrower”), has proposed that the City issue one or more series of tax-exempt or taxable revenue obligations (the “City Note”) in an aggregate principal amount not to exceed \$9,000,000. The Borrower has proposed to apply the proceeds of the City Note, along with the proceeds of revenue notes proposed to be issued by the City of St. Paul Park, Minnesota (the “City of St. Paul Park”) in an aggregate principal amount not to exceed \$6,500,000 (the “St. Paul Park Note”) and the City of Medina, Minnesota (the “City of Medina”) in an aggregate principal amount not to exceed \$10,000,000 (the “Medina Note,” and collectively with the City Note and the St. Paul Park Note, the “Notes”), to finance the costs of the acquisition, construction, and equipping by the Borrower of approximately 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road, Bloomington, Minnesota (the “Project”).

1.04. The Project financed with the proceeds of the Notes will be owned and operated by the Borrower.

1.05. In accordance with the Act, the City, the City of St. Paul Park, the City of Medina, and the City of Bloomington, Minnesota (the "City of Bloomington") have prepared a joint housing program (the "Housing Program"), which authorizes the issuance of the Notes by the City, the City of St. Paul Park, and the City of Medina to finance the Project. The Housing Program was submitted to Metropolitan Council for its review and comment.

1.06. The Borrower has represented to the City that it is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the "Code"), as a result of the application of Section 501(c)(3) of the Code.

1.07. Under Section 147(f) of the Code, prior to the issuance of the Notes, the City Council must conduct a public hearing after one publication of notice in a newspaper circulating generally in the City at least seven (7) days before the hearing. Under Section 462C.04, subdivision 2 of the Act, a public hearing must be held on the Housing Program after one publication of notice in a newspaper circulating generally in the City at least fifteen (15) days before the hearing.

1.08. On the date hereof, the City Council conducted a public hearing on the Project, the Housing Program, and the issuance of the City Note. As required by Section 462C.04, subdivision 2 of the Act and Section 147(f) of the Code, notice of the hearing was published in the *Crow River News*, the official newspaper of and a newspaper circulating generally in the City, at least fifteen (15) days before a meeting of the City Council on the date hereof. The public notice provided a general, functional description of the Project, as well as the maximum aggregate principal amount of the obligations to be issued for the purposes referenced therein, the identity of the initial owner, operator, or manager of the Project, and the location of the Project. At the public hearing, a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on the Project, the Housing Program, and the proposed issuance of the City Note.

1.09. On August 5, 2019, the City Council of the City of Bloomington held a duly noticed public hearing with respect to providing host approval for the issuance of the Notes pursuant to Minnesota Statutes, Section 471.59 and Section 147(f) of the Code and adopted a resolution approving the issuance of the Notes, the Housing Program, and a Cooperative Agreement (the "Cooperative Agreement") between the City of Bloomington, the City, the City of St. Paul Park, and the City of Medina.

1.10. The City Note is to be issued under the terms of this resolution. Choice Financial Group, a North Dakota banking corporation (the "Lender"), has agreed to purchase the City Note. The proceeds derived from the sale of the City Note (the "Loan") are to be loaned by the City to the Borrower pursuant to the terms of a Loan Agreement (the "Loan Agreement") between the City and the Borrower. Proceeds of the City Note will be applied by the Borrower to (i) finance a portion of the construction and equipping of the Project; (ii) finance capitalized interest on the City Note, if necessary; and (iii) pay the costs of issuing the City Note. The proceeds of the City Note will be disbursed pursuant to the terms of the Loan Agreement and the Construction Loan Disbursement Agreement (the "Disbursing Agreement") between the Lender, the Borrower, and a title company named therein.

1.11. The loan repayments required to be made by the Borrower under the terms of the Loan Agreement and certain other rights will be assigned to the Lender under the terms of an Assignment of Loan Agreement (the "Assignment") between the City and the Lender.

1.12. In consideration of the Loan by the City and to secure the payment of its obligations under the Loan Agreement and the principal of, premium, if any, and interest on the City Note when due, the Borrower will execute and deliver a mortgage document granting a mortgage lien on certain property of the Borrower (the "Mortgage") in favor of the Lender. The Loan will be further secured by, among other documents, a Security Agreement (the "Security Agreement") from the Borrower in favor of the Lender and a Guaranty Agreement (the "Guaranty") from Presbyterian Homes and Services, a Minnesota nonprofit corporation, in favor of the Lender.

1.13. The principal of, premium, if any, and interest on the City Note (i) shall be payable solely from the revenues pledged and otherwise available therefor; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; and (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Loan Agreement.

Section 2. The City Note.

2.01. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the City Note in an aggregate principal amount not to exceed \$9,000,000. The City Note shall bear interest at a rate or rates designated by the terms of the City Note, and shall be designated, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, shall be in such form, and shall have such other terms, details, and provisions as are prescribed in the form of the City Note now on file with the City, with the amendments referenced herein. The City hereby authorizes the City Note to be issued as a "tax-exempt bond" the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes.

2.02. All of the provisions of the City Note, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The City Note shall be substantially in the form now on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions as the Mayor and the City Administrator (the "Mayor" and the "City Administrator," respectively), in their discretion, shall determine. The Mayor and the City Administrator are authorized and directed to prepare the City Note, and the City Note shall be delivered to the Lender. The execution of the City Note with the manual or facsimile signatures of the Mayor and the City Administrator and the delivery of the City Note by the City shall be conclusive evidence of such determination. The City Council of the City hereby authorizes and directs the Mayor and the City Administrator to execute and deliver the City Note.

2.03. The City Note shall be a special, limited obligation of the City, and the principal of, premium, if any, and interest on the City Note shall be payable solely from the proceeds of the City Note, the revenues derived from the Borrower pursuant to the terms of the Loan Agreement and the security provided by the Borrower in accordance with the terms of the Loan Agreement, the Mortgage, the Security Agreement, the Guaranty, the other related loan documents described in the Loan Agreement, and any and all other security of any kind or nature provided by the Borrower to the Lender.

2.04. As provided in the Loan Agreement, the City Note shall not be payable from or charged upon any funds other than the revenues pledged to its payment, nor shall the City be subject to any liability thereon, except as otherwise provided in this paragraph. No holder of the

City Note shall ever have the right to compel any exercise by the City of its taxing powers to pay any of the City Note or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Loan Agreement and the revenues and assets thereunder, which will be assigned to the Lender under the Assignment. The City Note shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City, except the interests of the City in the Loan Agreement, and the revenues and assets thereunder, which will be assigned to the Lender under the Assignment. The City Note shall recite that the City Note is issued pursuant to the Act and that the City Note, including interest and premium, if any, thereon, is payable solely from the revenues and assets pledged to the payment thereof, and the City Note shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

2.05. The City Note is hereby deemed a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code.

Section 3. Agreements. The Mayor and the City Administrator are hereby authorized and directed to execute and deliver the Loan Agreement, the Assignment, and the Cooperative Agreement. All of the provisions of the Loan Agreement, the Assignment, and the Cooperative Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement, the Assignment, and the Cooperative Agreement shall be substantially in the forms on file with the City which are hereby approved, with such omissions and insertions as do not materially change the substance thereof, or as the Mayor and the City Administrator, in their discretion, shall determine, and the execution thereof by the Mayor and the City Administrator shall be conclusive evidence of such determination.

Section 4. Disbursements of City Note Proceeds. The proceeds of the City Note shall be disbursed in accordance with the terms of the Loan Agreement and the Disbursing Agreement.

Section 5. Other Documents. The Mayor and the City Administrator are hereby authorized to execute and deliver, on behalf of the City, such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the City Note, including one or more certificates of the City, an endorsement of the City to the tax certificate of the Borrower, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the City Note. The City hereby authorizes Kennedy & Graven, Chartered, as bond counsel to the City (“Bond Counsel”) to prepare, execute, and deliver its approving legal opinion with respect to the City Note.

Section 6. Declaration of Intent to Reimburse Costs. The United States Department of the Treasury has promulgated final regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City or a borrower from the City for project expenditures paid prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within eighteen (18) months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid. The

Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

To the extent any portion of the proceeds of the City Note will be applied to expenditures with respect to the Project, the City reasonably expects to reimburse the Borrower for the expenditures made for costs of the Project from the proceeds of the City Note after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance of the City Note, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

Section 7. The City and Its Officers, Employees, and Agents.

7.01. Except as otherwise provided in this resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City Council, or such officers, board, body, or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

7.02. No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council, or any officer, agent, or employee of the City in that person's individual capacity, and neither the City Council nor any officer or employee executing the City Note shall be liable personally on the City Note or be subject to any personal liability or accountability by reason of the issuance thereof.

7.03. No provision, covenant, or agreement contained in the aforementioned documents, the City Note, or in any other document relating to the City Note, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement which are to be applied to the payment of the City Note, as provided therein.

7.04. Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the City Note, any right, remedy, or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any holders from time to time of the City Note.

Section 8. Severability. In case any one or more of the provisions of this resolution, other than the provisions contained in Section 2.03 hereof, or of the aforementioned documents, or of the City Note issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the City Note, but this resolution, the aforementioned documents, and the City Note shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

Section 9. Validity of the City Note. The City Note, when executed and delivered, shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the City Note and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the City Note, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.

Section 10. Authorization for Other Acts. The officers of the City, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the City Note for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the City Note, the aforementioned documents and this resolution. In the event that for any reason the Mayor is unable to carry out the execution of any of the documents or other acts provided herein, any persons delegated the duties of the Mayor shall be authorized to act in the capacity of the Mayor and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City. If for any reason the City Administrator is unable to execute and deliver the documents referred to in this resolution, such documents may be executed by any person delegated the duties of the City Administrator, with the same force and effect as if such documents were executed and delivered by the City Administrator.

Section 11. Payment of Costs. The Borrower has agreed to pay directly or through the City any and all costs paid or incurred by the City in connection with the transactions authorized by this resolution, whether or not the City Note is issued.

Section 12. Payment of City's Administrative Fee. The Loan Agreement will require the Borrower to pay the City's bond administrative fee in the amount of 50 basis points of the original aggregate principal amount of the City Note when the City Note is issued.

Section 13. Effective Date. This resolution shall be in full force and effect from and after its passage.

This resolution was adopted by the city council of the City of Independence on this 20th day of August 2019 by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

First Draft
August 15, 2019

**UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**CITY OF INDEPENDENCE
SENIOR HOUSING REVENUE NOTE
(FOUNDERS RIDGE PROJECT)
SERIES 2019C**

No. R-1

\$9,000,000

<u>Initial Interest Rate</u>	<u>Original Issue Date</u>	<u>Maturity Date</u>
____%	September 6, 2019	September 5, 2044

The City of Independence, a municipal corporation and political subdivision of the State of Minnesota (the “Issuer”), for value received, hereby promises to pay to Choice Financial Group, a North Dakota banking corporation (the “Lender”), or its registered assigns (the Lender and any subsequent owner of this Note being also hereinafter referred to as the “Holder”), by such means and manner as the Holder may designate in writing, solely from the source and in the manner hereinafter provided, the principal amount, plus accrued interest and prepayment premium, if any, of this Senior Housing Revenue Note (Founders Ridge Project), Series 2019C (this “Note”). The accrued interest on amounts outstanding under this Note shall be payable to the Holder in monthly installments on the first Business Day of each month commencing October 1, 2019, and thereafter through and including September 1, 2021. Commencing on October 1, 2021 and on the first Business Day of each month thereafter, the principal of and accrued interest on amounts outstanding under this Note shall be payable to the Holder in monthly installments to be applied first to accrued but unpaid interest on the unpaid principal amount of this Note, and second to the unpaid principal of this Note with the principal portion of each such installment being in an amount sufficient to amortize the outstanding principal balance of this Note in equal monthly installments by September 5, 2044 (the “Maturity Date”). Each date of payment of interest or each date of payment of principal of and interest on this Note is hereinafter referred to as a “Payment Date.” On the Maturity Date, all accrued and unpaid interest and the unpaid principal balance of this Note shall be paid in full.

Interest on this Note shall be payable as follows:

A. From the Original Issue Date through September 5, 2024, this Note shall bear interest at a fixed rate of _____% (the “Initial Interest Rate”), which is sum of the prevailing five-year Federal Home Loan Bank Fixed Rate Advance Rate (hereinafter defined), plus 225 basis points, multiplied by such sum by 0.80.

B. On each Reset Date, the interest rate on this Note shall reset using the following formula: the sum of the prevailing five-year Federal Home Loan Bank Fixed Rate Advance Rate, plus 225 basis points, multiplied by 0.80. In no event shall the interest rate on this Note be lower than 3.828% per annum. In no event shall the adjusted interest rate on this Note cause the interest rate to adjust by more

than 200 basis points on any Reset Date. In no event shall the adjusted interest rate on any Reset Date be less than 3.828% per annum or exceed 300 basis points over the Initial Interest Rate on this Note.

C. With respect to the interest rates described above, the following definitions are applicable:

(i) “Federal Home Loan Bank Fixed Rate Advance Rate” means the Federal Home Loan Bank of Des Moines 5 Year Fixed Rate Advance Rate – Regular (currently available at <https://www.fhlbdm.com/products-services/advances>) as of two Business Days prior to the applicable Reset Date. Provided, however, that if such rate is no longer available then such offered rate shall be otherwise independently determined by the Lender from an alternate, substantially similar independent source available to the Lender or shall be calculated by the Lender by a substantially similar methodology as that theretofore used to determine such offered rate.

(ii) “Business Day” means a day which is not (a) a Saturday, Sunday, or other day on which banking institutions in the State of Minnesota are closed, or (b) a day on which the New York Stock Exchange or the Federal Reserve is closed.

(iii) “Default Rate” means a rate of interest that is three percent (3%) above the otherwise applicable rate.

(iv) “Reset Date” means each of the following dates: September 5, 2024, September 5, 2029, September 5, 2034, and September 5, 2039.

D. All determinations of the interest rate by the Lender hereunder shall be final and conclusive absent manifest error.

E. Interest shall accrue on the principal amount of this Note remaining unpaid from time to time, computed on the basis of twelve 30-day months and a 360-day year.

F. All payments of principal and interest on this Note shall be applied first to accrued but unpaid interest on the unpaid principal amount of this Note, and second to the unpaid principal of this Note.

Payment of the principal of and interest on this Note shall be made in coin or currency of the United States of America which at the time of payment is legal tender for payment of public and private debts.

If a monthly installment is not paid when due and is ten or more days late, a late charge equal to five percent (5%) of the installment due shall be payable to cover the expenses in handling delinquent payments. Late charges shall not be payable on installments which would have fallen due after acceleration upon default, unless the Holder later waives such acceleration and accepts payment of all principal then due with accrued interest at the Default Rate. Late charges shall be added to and become a part of the next succeeding monthly payment.

The Issuer has deemed this Note a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Optional Redemption. The principal balance of this Note is subject to optional redemption and prepayment, in whole or in part, on any Payment Date, upon thirty (30) days’ written notice from the

Borrower to the Holder, at a redemption price equal to the sum of the principal amount of this Note to be redeemed, accrued and unpaid interest on this Note to the date of such prepayment, and a prepayment premium (the “Prepayment Premium”) determined in accordance with the following table:

<u>Optional Redemption Dates</u>	<u>Prepayment Premium</u>
During the period from the Original Issue Date to and including September 5, 2020, and during the first twelve months following each Reset Date (the “First Redemption Period”)	3.00%
During the twelve months following the First Redemption Period (the “Second Redemption Period”)	2.00%
During the twelve months following the Second Redemption Period (the “Third Redemption Period”)	1.00%
During the twelve months following the Third Redemption Period (the “Fourth Redemption Period”)	1.00%
During the twelve months following the Fourth Redemption Period (the “Fifth Redemption Period”)	0%

Notwithstanding the foregoing, in any calendar year, the Borrower may prepay up to fifteen percent (15%) of the outstanding principal amount of this Note without Prepayment Premium.

Mandatory Redemption. This Note is subject to mandatory redemption under the following conditions:

A. At the option of the Lender, this Note is subject to mandatory redemption in whole upon a Determination of Taxability on the first day of the then next succeeding month for which proper notice of redemption can be given, at a redemption price of one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date plus any applicable Prepayment Premium. If the Lender declines to exercise its ability to call for a mandatory redemption upon a Determination of Taxability, the interest rate on the Note, as of the Date of Taxability shall be the then applicable interest rate on the Note adjusted by deleting the “0.80” numeral from each of the formula for determining the interest rate on this Note on the Original Issue Date and on each Reset Date and replacing the same with “1.00.”

B. This Note is subject to mandatory redemption in whole, on any date upon thirty (30) days’ written notice from the Lender to the Borrower, from insurance proceeds in accordance with the applicable terms of the Mortgage (hereinafter defined) or from the proceeds of a condemnation award in accordance with the applicable terms of the Mortgage. No Prepayment Premium shall be payable in connection with any prepayment of this Note made with any insurance proceeds under applicable provisions of the Mortgage or made with the proceeds of any condemnation award under applicable provisions of the Mortgage.

C. This Note is subject to mandatory redemption and prepayment at the election of the Holder, in whole, on any date upon written notice from the Holder to the Borrower, following an “Event

of Default” under the terms of a Loan Agreement of even date herewith (the “Loan Agreement”) between the Issuer and the Borrower, as assigned to the Lender under the terms of an Assignment of Loan Agreement of even date herewith (the “Assignment of Loan Agreement”) between the Issuer, the Lender, and the Borrower, under any of the other Loan Documents, or the Guaranty Agreement, dated August 22, 2019 (the “Guaranty”), executed by Presbyterian Homes and Services, a Minnesota nonprofit corporation, for the benefit of the Lender. The redemption price of this Note, upon any such mandatory redemption and prepayment, shall equal the sum of the outstanding principal amount of this Note, plus accrued interest to the date of redemption and prepayment, plus any applicable Prepayment Premium payable with respect to this Note. Unless otherwise defined herein, all capitalized terms used in this Note shall have the same meanings as defined in the Loan Agreement.

This Note is a duly authorized obligation of the Issuer issued under a resolution of the Issuer adopted on August 20, 2019 (the “Resolution”).

The principal of and interest on this Note is payable by the Borrower on parity with the Borrower’s obligation to pay the principal of and interest on the (i) Senior Housing Revenue Refunding Note (Founders Ridge Project), Series 2014A, issued by the City of Bloomington, Minnesota in the original aggregate principal amount of \$7,912,000; (ii) Senior Housing Revenue Refunding Note (Founders Ridge Project), Series 2014B, issued by the City of Bloomington, Minnesota in the original aggregate principal amount of \$7,912,000; (iii) Senior Housing Revenue Note (Founders Ridge Project), Series 2019A, issued by the City of St. Paul Park, Minnesota on August 22, 2019 in the original aggregate principal amount of \$6,500,000; and (iv) Senior Housing Revenue Note (Founders Ridge Project), Series 2019B, issued by the City of Medina, Minnesota on August 22, 2019 in the original aggregate principal amount of \$10,000,000 (each collectively with this Note, the “Parity Debt”). In the Event of a Default, monies available to pay the principal of and interest on the Parity Debt shall be used to pay principal of and interest on the Parity Debt on a pro rata basis based on the principal amount outstanding of each note.

This Note is issued by the Issuer in the aggregate principal sum of \$9,000,000 for the purpose of making a loan of the proceeds thereof to the Borrower under the provisions of the Loan Agreement. Under the provisions of the Loan Agreement, the Borrower has agreed to use the proceeds of the Note to finance a portion of the acquisition, construction, and equipping of approximately 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road in the City of Bloomington, Minnesota (the “Series 2019 Project”).

Under the Loan Agreement, the Borrower has agreed to repay the Note, together with interest thereon, in installments scheduled to be sufficient to pay the principal of and interest on this Note. The Issuer has assigned and pledged to the Lender the Issuer’s interest in the Loan Agreement under the terms of the Assignment of Loan Agreement. To secure the timely repayment of this Note and the Parity Debt the Borrower has continued to grant a mortgage lien to the Lender on the property consisting of the Series 2019 Project owned by the Borrower under the terms of an Amended and Restated Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents, dated August 22, 2019 (the “Mortgage”), between the Borrower and the Lender. The Note is also secured by a Security Agreement, dated August 22, 2019 (the “Security Agreement”), by the Borrower in favor of the Lender, the Guaranty, and the other Loan Documents. The Issuer makes no representations as to the sufficiency of the amounts, if any, that may be realized from the Loan Agreement, the Assignment of Loan Agreement, the Security Agreement, the Guaranty, or the Mortgage in order to pay the principal of or the interest on this Note and the Parity Debt in the case of a default by the Borrower under the Loan Agreement. Reference is hereby made to the Loan Agreement and the Mortgage for a description of the agreements and covenants of the Borrower contained therein.

Upon the sale or other disposition of the Series 2019 Project financed with the proceeds of this Note and the Parity Debt, pursuant to the terms of the Mortgage, the Borrower shall apply the proceeds of the sale or other disposition to the payment of the principal of and accrued interest on this Note and the Parity Debt. All proceeds of the Mortgage shall be applied to the repayment of this Note and the Parity Debt on a parity basis.

This Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Minnesota, particularly Minnesota Statutes, Chapter 462C, as amended, and in accordance with the terms of the Resolution. This Note is not a general or moral obligation of the Issuer, and the taxing power or general assets or revenues of the Issuer are not pledged to the payment of this Note or the interest thereon. This Note is a special, limited obligation of the Issuer. Principal of and interest on this Note is payable solely out of the revenues derived from the Loan Agreement or from security provided by the Borrower. Neither this Note nor any of the agreements or obligations of the Issuer shall be construed to constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitations, nor constitute or give rise to a pecuniary liability or a charge against the general credit or taxing powers of the Issuer.

This Note shall be registered and shall be transferable upon the books of the Issuer at the offices of the Issuer by the Holder hereof in person or by the Holder's attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Issuer, duly executed by the Holder or the Holder's duly authorized attorney. Upon such transfer the Issuer will note the date of registration and the name and address of the new Holder upon the books of the Issuer and in the registration blank appearing below. Alternatively, the Issuer will at the request and expense of the Holder issue a new note or notes in an aggregate principal amount equal to the unpaid principal balance of this Note, and of like tenor except as to number, principal amount, and the number and amount of the installments payable thereunder, and registered in the name of the Holder or such transferee as may be designated by the Holder. The Issuer may deem and treat the person in whose name this Note is last registered upon the books of the Issuer with such registration also noted on this Note, as the absolute owner hereof, whether or not overdue, for the purpose of receiving payment of or on account of the principal balance, prepayment price, or interest, and for all other purposes, and all such payments so made to the Holder or upon its order shall be valid and effectual to satisfy and discharge the liability upon this Note to the extent of the sum or sums so paid, and the Issuer shall not be affected by any notice to the contrary.

Time is of the essence under this Note. If an "Event of Default" occurs under the Loan Agreement, the Assignment of Loan Agreement, the Mortgage, or the other Loan Documents, or if any other event occurs which entitles the Holder to accelerate payment under the Loan Agreement, the Assignment of Loan Agreement, or the Mortgage, then the Holder may at its right and option (subject, however, to such notice as may be required under the Loan Agreement, the Assignment of Loan Agreement, the Mortgage, or the other Loan Documents) declare immediately due and payable the principal balance of this Note and interest accrued thereon at the Default Rate, together with any attorneys' fees incurred by the Holder in collecting or enforcing payment thereof, whether suit be brought or not, and all other sums due hereunder, in which event this Note shall be prepaid in accordance with the provisions hereof. Interest shall cease to accrue on this Note from the date all sums and obligations under the Loan Documents have been paid and satisfied in full.

The Holder shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to subsequent event.

It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and governed by the laws thereof.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed by its duly authorized officers as of the Original Issue Date.

CITY OF INDEPENDENCE, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

PROVISIONS AS TO REGISTRATION

The ownership of the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of the City of Independence, Minnesota, in the name of the registered holder last noted below.

<u>Date of Registration</u>	<u>Name and Address of Registered Holder</u>	<u>Signature of Issuer as Note Registrar</u>
September 6, 2019	Choice Financial Group 6210 Wayzata Boulevard Golden Valley, MN 55416	

First Draft
August 15, 2019

ASSIGNMENT OF LOAN AGREEMENT

between

**CITY OF INDEPENDENCE, MINNESOTA,
as Issuer**

**PHS FOUNDERS RIDGE, INC.,
as Borrower**

and

**CHOICE FINANCIAL GROUP
as Lender**

Dated September 6, 2019

Relating to:

**\$9,000,000
City of Independence, Minnesota
Senior Housing Revenue Note
(Founders Ridge Project)
Series 2019C**

This instrument drafted by:

Kennedy & Graven, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402-1458

ASSIGNMENT OF LOAN AGREEMENT

This Assignment of Loan Agreement, dated September 6, 2019, is made and entered into between the CITY OF INDEPENDENCE, MINNESOTA, a municipal corporation and political subdivision of the State of Minnesota (the “Issuer”), PHS FOUNDERS RIDGE, INC., a Minnesota nonprofit corporation (the “Borrower”), and CHOICE FINANCIAL GROUP, a North Dakota banking corporation (the “Lender”).

RECITALS

The Borrower and the Issuer have entered into a Loan Agreement of even date herewith (the “Loan Agreement”) under the terms of which the Issuer will lend to the Borrower the proceeds of its Senior Housing Revenue Note (Founders Ridge Project), Series 2019C (the “Series 2019C Note”), in the original aggregate principal amount of \$9,000,000.

The proceeds derived from the sale of the Series 2019C Note will be applied to a portion of the costs of the acquisition, construction, and equipping of approximately 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road in the City of Bloomington, Minnesota (the “Project”).

The Series 2019C Note is payable from and secured by the loan repayments to be made by the Borrower under the Loan Agreement, and the Lender, as a condition to the purchase of the Series 2019C Note, has required the execution of this Assignment of Loan Agreement.

NOW, THEREFORE, as an inducement to the Lender to purchase the Series 2019C Note, and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the parties hereby agree as follows:

1. In order to secure the due and punctual payment of the Series 2019C Note and all other sums due the Lender under the Loan Agreement, the Issuer does hereby pledge and assign to the Lender all of the Issuer’s right, title, and interest in and to the Loan Agreement, subject to the Issuer’s reserved rights referred to in Section 8.9 of the Loan Agreement.

2. The Issuer hereby represents and warrants to the Lender that the Issuer has not assigned its right, title, and interest in the Loan Agreement to any person other than the Lender pursuant to the terms of this Assignment of Loan Agreement. Subject to the terms and limitations of Section 8.6 of the Loan Agreement, the Issuer hereby makes the representations and warranties to the Lender as set forth in Section 2.1 of the Loan Agreement, the provisions of which are fully incorporated herein.

3. The Issuer hereby authorizes the Lender to exercise, whether or not a default exists under the Series 2019C Note or an “Event of Default” has occurred under the Loan Agreement, either in the Issuer’s name or the Lender’s name, any and all rights or remedies available to the Issuer under the Loan Agreement. The Issuer agrees, on request of the Lender, to execute and deliver to the Lender such other documents or instruments as shall be deemed necessary or appropriate by the Lender at any time to confirm or perfect the security interest hereby granted. The Issuer hereby appoints the Lender as its attorney-in-fact to execute on behalf of the Issuer, and in its name, any and all such assignments, financing statements, or other documents or instruments which the Lender may deem necessary or appropriate to perfect, protect, or enforce the security interest hereby granted.

4. The Issuer will not:

(a) exercise or attempt to exercise any remedies under the Loan Agreement, except as permitted by Sections 7.2 and 8.9 of the Loan Agreement, or terminate, modify, or accept a surrender of the same, or by affirmative act, consent to the creation or existence of any security interest or other lien in the Loan Agreement to secure payment of any other indebtedness; or

(b) receive or collect or permit the receipt or collection of any payments, receipts, rentals, profits, or other money under the Loan Agreement (except as allowed under Section 8.9 thereof) or assign, transfer, or hypothecate (other than to the Lender hereunder) any of the same then due or to accrue in the future; or

(c) amend, modify, or agree to the termination of the Loan Agreement without the Lender's prior written consent.

5. The Issuer expressly covenants and agrees that the Lender shall be entitled to receive all payments under the Loan Agreement (except any payments due the Issuer under Section 8.9 thereof), and hereby authorizes and directs the Borrower to make such payments directly to the Lender. The Lender covenants and agrees that all payments received by the Lender pursuant to the Loan Agreement shall be applied to the payment of principal of and interest on the Series 2019C Note.

6. If an Event of Default shall occur and be continuing, the Lender may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Lender may, without prior notice of any kind, declare the principal of and interest accrued on the Series 2019C Note immediately due and payable.

(b) The Lender may exercise all rights and remedies under the Loan Documents.

(c) The Lender may exercise any rights and remedies and options of a secured party under the Uniform Commercial Code as adopted in the State of Minnesota and any and all rights available to it under the Loan Agreement.

7. The Borrower hereby consents to this Assignment of Loan Agreement and agrees to make all loan repayments pursuant to the Loan Agreement directly to the Lender so long as the Lender is the owner of the Series 2019C Note.

8. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises, and agreements in this Assignment of Loan Agreement contained by or on behalf of the Issuer or the Lender shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

9. The unenforceability or invalidity of any provision or provisions of this Assignment of Loan Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

10. This Assignment of Loan Agreement shall in all respects be construed in accordance with and governed by the laws of the State of Minnesota. This Assignment of Loan Agreement may not be amended or modified except in writing signed by the Issuer, the Borrower, and the Lender.

11. This Assignment of Loan Agreement may be executed, acknowledged, and delivered in any number of counterparts and each of such counterparts shall constitute an original but all of which together shall constitute one agreement.

12. The terms used in this Assignment of Loan Agreement which are defined in the Loan Agreement shall have the meanings specified therein, unless the context of this Assignment of Loan Agreement otherwise requires, or unless such terms are otherwise defined herein.

13. No obligation of the Issuer hereunder shall constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers, but shall be payable solely out of the proceeds and the revenues derived under the Loan Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Issuer and the Lender have caused this Assignment of Loan Agreement to be duly executed as of the date and year first written above.

CITY OF INDEPENDENCE, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

Execution page of the Borrower to the Assignment of Loan Agreement, dated as of the date and year first written above.

PHS FOUNDERS RIDGE, INC.

By: _____
Its: Chief Financial Officer

Execution page of the Lender to the Assignment of Loan Agreement, dated as of the date and year first written above.

CHOICE FINANCIAL GROUP

By: _____

Its: _____

Third Draft
August __, 2019

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT, dated August 22, 2019 (the “Cooperative Agreement”), is made and entered into between the CITY OF BLOOMINGTON, MINNESOTA (the “Host City”), the CITY OF ST. PAUL PARK, MINNESOTA (the “City of St. Paul Park”), the CITY OF MEDINA, MINNESOTA (the “City of Medina”), and the CITY OF INDEPENDENCE, MINNESOTA (the “City of Independence,” and together with the City of St. Paul Park, and the City of Medina, the “Issuers”).

RECITALS

WHEREAS, PHS Founders Ridge, Inc., a Minnesota nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Borrower”), has proposed to finance the cost of the acquisition, construction, and equipping of an approximately 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road in the Host City (the “Series 2019 Project”).

WHEREAS, the Host City and the Issuers are authorized by the provisions of Minnesota Statutes, Chapter 462C, as amended (the “Act”), to issue revenue obligations to finance multifamily housing developments.

WHEREAS, pursuant to Minnesota Statutes, Section 471.656, as amended, municipalities may issue obligations to finance the acquisition or improvement of property located outside of the corporate boundaries of such municipality if the obligations are issued under a joint powers agreement in which one or more of the parties to the joint powers agreement issue such obligations and the property is located entirely within the boundaries of one or more of the parties to the joint powers agreement.

WHEREAS, pursuant to Minnesota Statutes, Section 471.59, as amended, by the terms of a joint powers agreement entered into through action of their governing bodies, two or more municipalities may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised, and the joint powers agreement may provide for the exercise of such powers by one or more of the participating municipalities on behalf of the other participating municipalities.

WHEREAS, the revenue obligations proposed to be issued by the Issuers for the benefit of the Borrower will not constitute general or moral obligations of, or pledge the full faith and credit or taxing powers of the Host City, the City of St. Paul Park, the City of Medina, the City of Independence, the State of Minnesota, or any other agency or political subdivision thereof, but will be payable solely from the revenues pledged and assigned thereto pursuant to one or more revenue agreements between the Issuers and the Borrower.

WHEREAS, the City Council of the Host City and the City Councils of the Issuers have authorized the execution and delivery of this Cooperative Agreement.

NOW, THEREFORE, the Host City and the Issuers agree as follows:

1. In order to finance construction and equipping of the Project, (i) the City of St. Paul Park shall issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019A (the “Series 2019A Note”), in the original aggregate principal amount of \$6,500,000; (ii) the City of Medina shall issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019B (the “Series 2019B Note”) in the original aggregate principal amount of \$10,000,000; and (iii) the City of Independence shall issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019C (the “Series 2019C Note,” and together with the Series 2019A Note and the Series 2019B Note, the “Notes”), in the original aggregate principal amount of \$9,000,000.

2. The Host City, the City of St. Paul Park, the City of Medina, and the City of Independence have each conducted a public hearing with respect to the issuance of the Notes and the Project.

3. The Host City, the City of St. Paul Park, the City of Medina, and the City of Independence have each adopted a resolution approving this Cooperative Agreement and authorizing its execution and delivery.

4. The Host City hereby consents to and approves the issuance of the St. Paul Park Note by the City of St. Paul Park, the issuance of the Medina Note by the City of Medina, and the issuance of the Independence Note by the City of Independence for the purposes stated herein.

5. Except to the extent specifically provided herein, the Host City, the City of St. Paul Park, the City of Medina, the City of Independence shall not incur any obligations or liabilities to each other as a result of the issuance of the St. Paul Park Note, the Medina Note, or the Independence Note. The St. Paul Park Note, the Medina Note, and the Independence Note shall be special, limited obligations of the City of St. Paul Park, the City of Medina, and the City of Independence, respectively, payable solely from proceeds, revenues, and other amounts specifically pledged to the payment of the St. Paul Park Note, the Medina Note, and the Independence Note. The St. Paul Park Note, the Medina Note, and the Independence Note and the interest thereon shall not constitute or give rise to a pecuniary liability, general or moral obligation, or a pledge of the full faith and credit or taxing powers of the Host City, the City of St. Paul Park, the City of Medina, the City of Independence, the State of Minnesota, or any political subdivision of the above, within the meaning of any constitutional or statutory provisions.

6. All costs incurred by the Host City, the City of St. Paul Park, the City of Medina, and the City of Independence in the authorization, execution, delivery, and performance of this Agreement and all related transactions shall be paid by the Borrower.

7. Pursuant to (i) the Loan Agreement, between the St. Paul Park and the Borrower (the “St. Paul Park Loan Agreement”); (ii) the Loan Agreement, between the City of Medina and the Borrower (the “Medina Loan Agreement”); and (iii) the Loan Agreement, between the City of Independence and the Borrower (the “Independence Loan Agreement”), the Borrower has agreed to indemnify and hold harmless the Host City and each respective Issuer and their officers, agents and employees harmless from and against all liabilities, losses, damages, costs, expenses (including attorneys’ fees and expenses), causes of action, suits, claims, demands and judgments of any nature arising from the acts or omissions of the respective officers, agents, or employees of the Borrower, to the extent such acts or omissions are related to activities conducted by the Borrower under the St. Paul Park Loan Agreement, the Medina Loan Agreement, and the Independence Agreement, as the case may be.

8. For the avoidance of doubt, the parties to this Cooperative Agreement understand and acknowledge that the sole obligations of the Host City under this Cooperative Agreement is to hold a public hearing and grant host approval to allow the Issuers to issue the Notes. The Host City has no

obligations related to the Notes or the Series 2019 Project to be financed with the proceeds of the Notes. The Issuers are responsible for all obligations related to being the conduit bond issuers and issuing the Notes.

9. This Cooperative Agreement may not be terminated by any party so long as any Notes are outstanding.

10. This Cooperative Agreement may be amended by the Host City, the City of St. Paul Park, the City of Medina, or the City of Independence at any time. No amendment may impair the rights of the Borrower or the holders of the St. Paul Park Note, the Medina Note, or the Independence Note.

11. This Cooperative Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement.

12. This Cooperative Agreement shall be governed by the laws of the State of Minnesota.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, duly authorized officers of the Host City and the Issuers have executed this Cooperative Agreement as of the date and year first written above.

CITY OF BLOOMINGTON, MINNESOTA,
as Host City

By _____
Its Mayor

By _____
Its City Manager

Reviewed and Approved by:

Melissa Manderschied
City Attorney

Execution page of the City of St. Paul Park to the Cooperative Agreement, dated as of the date and year first written above.

CITY OF ST. PAUL PARK, MINNESOTA,
as an Issuer

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the City of Medina to the Cooperative Agreement, dated as of the date and year first written above.

CITY OF MEDINA, MINNESOTA,
as an Issuer

By _____
Its Mayor

By _____
Its City Administrator

Execution page of the City of Independence to the Cooperative Agreement, dated as of the date and year first written above.

CITY OF INDEPENDENCE, MINNESOTA,
as an Issuer

By _____
Its Mayor

By _____
Its City Administrator

First Draft
August 15, 2019

LOAN AGREEMENT

between

**CITY OF INDEPENDENCE, MINNESOTA,
as Issuer**

and

**PHS FOUNDERS RIDGE, INC.,
as Borrower**

Dated September 6, 2019

Relating to:

**\$9,000,000
City of Independence, Minnesota
Senior Housing Revenue Note
(Founders Ridge Project)
Series 2019C**

Except for certain reserved rights, as described in Section 8.9 herein, the interest of the City of Independence, Minnesota, in this Loan Agreement has been pledged and assigned to Choice Financial Group, a North Dakota banking corporation, pursuant to an Assignment of Loan Agreement of even date herewith.

This Instrument drafted by:
Kennedy & Graven, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402-1458

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LOAN AGREEMENT

This Loan Agreement, dated August 22, 2019 (the “Loan Agreement”), is made and entered into between the CITY OF INDEPENDENCE, MINNESOTA, a municipal corporation and political subdivision of the State of Minnesota (the “Issuer”), and PHS FOUNDERS RIDGE, INC., a Minnesota nonprofit corporation (the “Borrower”).

RECITALS

WHEREAS, the Issuer is authorized by the provisions of Minnesota Statutes, Chapter 462C, as amended (the “Act”), to issue revenue obligations to finance multifamily housing developments (including nursing and assisted living facilities); and

WHEREAS, pursuant to Minnesota Statutes, Section 471.656, as amended, a municipality is authorized to issue obligations to finance the acquisition or improvement of property located outside of the corporate boundaries of such municipality if the obligations are issued under a joint powers agreement between the governmental unit issuing the obligations and the governmental unit in which the property to be acquired or improved is located; and

WHEREAS, pursuant to Minnesota Statutes, Section 471.59, as amended, by the terms of a joint powers agreement entered into through action of their governing bodies, two or more governmental units may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised and the joint powers agreement may provide for the exercise of such powers by one or more of the participating municipalities on behalf of the other participating municipalities; and

WHEREAS, the Borrower has proposed to acquire, construct, and equip 111 independent senior living apartments as an addition to an existing senior housing campus located at 6600 Auto Club Road, Bloomington, Minnesota (the “Series 2019 Project”); and

WHEREAS, in order to finance the acquisition, construction, and equipping of the Series 2019 Project, the Borrower has requested that (i) the City of St. Paul Park, Minnesota (the “City of St. Paul Park”) issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019A (the “Series 2019A Note”), in the original aggregate principal amount of \$6,500,000; (ii) the City of Medina, Minnesota (the “City of Medina”) issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019B (the “Series 2019B Note”), in the original aggregate principal amount of \$10,000,000; and (iii) the Issuer issue its Senior Housing Revenue Note (Founders Ridge Project), Series 2019C (the “Series 2019C Note,” and collectively with the Series 2019A Note and the Series 2019B Note, the “Series 2019 Notes”), in the original aggregate principal amount of \$9,000,000; and

WHEREAS, on August 22, 2019, the City of St. Paul Park issued the Series 2019A Note pursuant to the Act, Minnesota Statutes, Sections 471.59 and 471.656, as amended, and a resolution adopted by the City Council of the City of St. Paul Park on August 5, 2019, and loaned the proceeds of the Series 2019A Note to the Borrower under the terms of a Loan Agreement, dated August 22, 2019, between the City of St. Paul Park and the Borrower, for the purposes of (i) financing a portion of the construction and equipping of the Series 2019 Project; (ii) funding capitalized interest on the Series 2019A Note during the construction of the Series 2019 Project; and (iii) paying costs of issuance of the Series 2019A Note; and

WHEREAS, on August 22, 2019, the City of Medina issued the Series 2019B Note pursuant to the Act, Minnesota Statutes, Sections 471.59 and 471.656, as amended, and a resolution adopted by City

Council of the City of Medina on August 20, 2019, and loaned the proceeds of the Series 2019B Note to the Borrower under the terms of a Loan Agreement, dated August 22, 2019, between the City of Medina and the Borrower, for the purposes of (i) financing a portion of the construction and equipping of the Series 2019 Project; (ii) funding capitalized interest on the Series 2019B Note during the construction of the Series 2019 Project; and (iii) paying costs of issuance of the Series 2019B Note; and

WHEREAS, the Issuer has agreed to issue the Series 2019C Note pursuant to the Act, Minnesota Statutes, Sections 471.59 and 471.656, as amended, and a resolution adopted by the City Council of the Issuer on August 20, 2019 (the “Resolution”), and will loan the proceeds of the Series 2019C Note to the Borrower under the terms hereof for the purposes of (i) financing a portion of the construction and equipping of the Series 2019 Project; (ii) funding capitalized interest on the Series 2019C Note during the construction of the Series 2019 Project; and (iii) paying costs of issuance of the Series 2019C Note; and

WHEREAS, pursuant to Minnesota Statutes, Section 471.59, as amended, the City of Bloomington, Minnesota (the “City of Bloomington”), the City of St. Paul Park, the City of Medina, and the Issuer have entered into a Cooperative Agreement, dated August 22, 2019, pursuant to which the City of St. Paul Park, the City of Medina, and the Issuer have agreed to issue the Series 2019A Note, the Series 2019B Note, and the Series 2019C Note, respectively, for the purposes of financing facilities located in the City of Bloomington, and the City of Bloomington has agreed to the issuance of the Series 2019A Note, the Series 2019B Note, and the Series 2019C Note; and

WHEREAS, at the request of the Borrower, pursuant to the Resolution, the City Council of the Issuer has authorized the issuance of its Series 2019C Note in the original aggregate principal amount of \$9,000,000, and the Series 2019C Note is being sold to Choice Financial Group, a North Dakota banking corporation (the “Lender”); and

WHEREAS, the proceeds derived by the Issuer from the sale of the Series 2019C Note are being applied to make a loan (the “Loan”) by the Issuer to the Borrower under the terms of this Loan Agreement, and the Borrower will apply the proceeds of the Loan to the financing of a portion of the Series 2019 Project; and

WHEREAS, the Borrower will be absolutely and unconditionally obligated to repay the Loan, together with interest thereon, on the dates and in the amounts sufficient to pay when due the principal of and interest on the Series 2019C Note; and

WHEREAS, to induce the Lender to purchase the Series 2019C Note and to secure the payment of the principal of, premium, if any, and interest on the Series 2019C Notes when due, the Issuer will assign its rights under this Loan Agreement to the Lender (except for its rights to indemnification and payment of certain costs of the Issuer as set forth in this Loan Agreement) under the terms of the Assignment of Loan Agreement of even date herewith (the “Assignment of Loan Agreement”) between the Issuer, the Lender, and the Borrower; and

WHEREAS, to further secure its obligations under this Loan Agreement including, but not limited to, its obligation to make all loan repayments in amounts sufficient to pay all principal of, premium, if any, and interest on the Series 2019 Notes when due, the Borrower will execute and deliver to the Lender an Amended and Restated Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents, dated August 22, 2019, between the Borrower and the Lender, a Security Agreement, dated August 22, 2019, by the Borrower in favor of the Lender, and the other Loan Documents (hereinafter defined); and

WHEREAS, to further secure its obligations under this Loan Agreement, Presbyterian Homes and Services, a Minnesota nonprofit corporation, will execute and deliver a Guaranty Agreement, dated August 22, 2019, in favor of the Lender; and

NOW, THEREFORE, the Issuer and the Borrower each in consideration of the representations, covenants, and agreements of the other as set forth herein, mutually represent, covenant, and agree as follows:

(The remainder of this page is intentionally left blank.)

ARTICLE I

DEFINITIONS AND RULES OF INTERPRETATION

Section 1.1. Definitions. In this Loan Agreement, the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

2019 Taxable Note: the Promissory Note, dated August 22, 2019, issued by the Borrower and payable to the order of the Lender in the original aggregate principal amount of \$7,976,217.

Act: Minnesota Statutes, Chapter 462C, as amended.

Administrative Fee: the fee payable to the Issuer pursuant to Section 3.6 hereof.

Architect/Engineer's Certificate: the Architect/Engineer's Certificate, dated August 22, 2019, by the Project Architect and such other architect or engineer in favor of the Lender, and all amendments and supplements thereto.

Assignment of Construction Documents: the Assignment of Plans, Contracts, Agreements, Licenses and Permits, dated August 22, 2019, between the Borrower and the Lender, and all amendments and supplements thereto.

Assignment of Loan Agreement: the Assignment of Loan Agreement, dated the Date of Issuance, between the Issuer, the Borrower, and the Lender, assigning the Issuer's interest in this Loan Agreement to the Lender to the extent provided therein, as the same may from time to time be amended or supplemented.

Bond Counsel: the firm of Kennedy & Graven, Chartered, Minneapolis, Minnesota or any other firm of nationally recognized bond counsel experienced in tax-exempt bond financing selected by the Issuer and acceptable to the Borrower.

Borrower: PHS Founders Ridge, Inc., a Minnesota nonprofit corporation, its successors and assigns, and any surviving, resulting, or transferee business entity which may assume its obligations in accordance with the provisions of this Loan Agreement.

Business Day: any day other than a Saturday, a Sunday, or a day on which banking institutions in the states of Minnesota and New York are closed.

City of Bloomington: the City of Bloomington, Minnesota.

City of Independence: the City of Independence, Minnesota.

City of Medina: the City of Medina, Minnesota.

City of St. Paul Park: the City of St. Paul Park, Minnesota.

Closing: the date of physical delivery of the Series 2019C Note to the Lender.

Code: the Internal Revenue Code of 1986, as amended, and the temporary, final, or proposed regulations promulgated thereunder.

Collateral Assignment of Management Agreement: the Collateral Assignment of Management Agreement and Subordination of Management Fees, dated August 22, 2019, between the Borrower, the Lender, and PHS Management, LLC, and all amendments and supplements thereto.

Consents to Assignments: the Consent to Assignment, dated August 22, 2019, each executed and delivered by the General Contractor, the Project Architect, and such other contractors, architects or engineers as determined by the Lender, all in favor of the Lender, and all amendments and supplements thereto.

Construction Documents: this term shall have the meaning provided in the Disbursing Agreement.

Cooperative Agreement: the Cooperative Agreement, dated August 22, 2019, between the City of Bloomington, the City of St. Paul Park, the City of Medina, and the Issuer, including any amendment thereof or supplement thereto.

Counsel: an attorney designated by or acceptable to the Lender, duly admitted to practice law before the highest court of any state; an attorney for the Borrower or the Issuer may be eligible for appointment as Counsel.

Date of Taxability: this term shall have the meaning ascribed to it in Section 5.4(2) hereof.

Date of Issuance: September 6, 2019, which is the date of issuance of the Series 2019C Note.

Days' Cash on Hand: Liquid Assets divided by the quotient derived from Operating Expenses of the Borrower for its most recent Fiscal Year divided by three hundred sixty-five (365).

Debt Service Coverage Ratio: Net Revenues Available for Debt Service of the Borrower for a Fiscal Year divided by the sum of the Total Principal and Interest Requirements for such Fiscal Year.

Default Rate: a rate of interest that is three percent (3%) above the otherwise applicable interest rate of the Series 2019C Note.

Determination of Taxability: this term shall have the meaning ascribed to it in Section 5.4(2) hereof.

Disbursing Agreement: the Construction Loan Disbursement Agreement, dated August 22, 2019, between the Borrower, the Lender, and the Title Company, and all amendments and supplements thereto.

Environmental and ADA Indemnification Agreement: the Environmental and ADA Indemnification Agreement, dated August 22, 2019, by the Borrower in favor of the Lender, and all amendments and supplements thereto.

Event of Default: any of the events described in Section 7.1 hereof.

Exempt Organization: an organization that is exempt from federal income taxation under the provisions of Section 501(a) of the Code as a result of the application of Section 501(c)(3) of the Code.

Financial Statements: all balance sheets, income statements, and statements of cash flow for the Borrower and Guarantor, delivered by the Borrower to the Issuer or the Lender as required by terms of the Lender Documents.

Fiscal Year: the period commencing on the first day of October of any year and ending on the last day of September of the following year or any other twelve (12) month period specified by the Borrower.

General Contractor: Doran Construction Company, LLC, a Minnesota limited liability company.

Gross Revenues: for any period of calculation, the aggregate, calculated in accordance with generally accepted accounting principles, of all operating and non-operating revenues of the Borrower, including, but without limiting the generality of the foregoing, (a) resident service revenues, (b) other operating revenues, (c) contributions (other than restricted endowment), (d) unrestricted investment income, (e) unrestricted endowment income, (f) net proceeds from business interruption insurance, and (g) any unrestricted transfers from any entity affiliated with the Borrower; provided, that any calculation of the Gross Revenues shall not take into account any unrealized gains or losses on investments or any extraordinary or non-recurring items, in accordance with generally accepted accounting principles (including without limitation any gain or loss resulting from either the extinguishment of indebtedness or the sale, exchange or other disposition of assets not made in the ordinary course of business).

Guarantor: Presbyterian Homes and Services, a Minnesota nonprofit corporation, its successors and assigns.

Guaranty Agreement: the Guaranty Agreement, dated August 22, 2019, executed by the Guarantor in favor of the Lender, and all amendments and supplements thereto.

Independent: when used with reference to an attorney, engineer, architect, certified public accountant, consultant, or other professional person, means a person who (i) is in fact independent, (ii) does not have any material financial interest in the Borrower or the transaction to which his or her certificate or opinion relates (other than payment to be received for professional services rendered), and (iii) is not connected with the Issuer or the Borrower as an officer, director, or employee.

Interest Reserve: this term has the meaning ascribed to it in Section 3.7 hereof.

Issuance Expenses: any and all costs and expenses relating to the issuance, sale, and delivery of the Series 2019C Note, including, but not limited to, any fees of the Lender, all fees and expenses of legal counsel, financial consultants, feasibility consultants and accountants, any fee to be paid to the Issuer on the Date of Issuance, the cost of preparation of this Loan Agreement, the Lender Documents, the Resolution, the Assignment of Loan Agreement, the Series 2019C Note, and all other related documents, and all other expenses relating to the issuance, sale, and delivery of the Series 2019C Note and any other costs which are treated as “issuance costs” within the meaning of Section 147(g) of the Code.

Issuer: the City of Independence, Minnesota, its successors and assigns.

Lender: Choice Financial Group, a North Dakota banking corporation, its successors and assigns.

Lender Documents: collectively, the Mortgage, the Environmental and ADA Indemnification Agreement, the Guaranty Agreement, the Security Agreement, the Collateral Assignment of Management Agreement, the Assignment of Construction Documents, the Architect/Engineer's Certificate, the Consents to Assignments, the UCC-1 Financing Statements, and all other agreements, instruments or

documents executed by the Borrower or the Guarantor in connection with the Series 2019 Notes or the Mortgaged Property, as all of the same may be amended, supplemented, restated, replaced or otherwise modified from time to time.

Liquid Assets: unencumbered and unrestricted cash and cash equivalents of the Borrower.

Loan: the loan of the proceeds of the Series 2019C Note from the Issuer to the Borrower described in Section 3.1 hereof.

Loan Agreement: the Loan Agreement, dated the Date of Issuance, between the Issuer and the Borrower, as the same may from time to time be amended or supplemented.

Loan Documents: collectively, the Series 2019C Note, the Loan Agreement, the Cooperative Agreement, the Disbursing Agreement, the Assignment of Loan Agreement, the Series 2019C Note Purchase Agreement, the Lender Documents, and all other agreements, instruments or documents executed by the Borrower or the Guarantor in connection with the Series 2019C Note or the Mortgaged Property, as all of the same may be amended, supplemented, restated, replaced or otherwise modified from time to time.

Long Term Debt: all obligations for the payment of money incurred or assumed by the Borrower which appear as liabilities on its balance sheet as determined in accordance with generally accepted accounting principles consistently applied, having a final maturity of more than one year from the date of its creation or which is renewable or extendible at the option of the Borrower for a period or periods more than one year from the date of its creation, but excluding any portion of it which is properly included in current liabilities.

Mortgage: the Amended and Restated Mortgage, Security Agreement, Fixture Financing Statement, and Assignment of Leases and Rents, dated August 22, 2019, between the Borrower and the Lender, and any additional amendments, supplements, restatements or replacements thereto and any other mortgage that the Borrower may in the future provide to the Lender as security for repayment of the Loan.

Mortgaged Property: has the meaning given such term in the Mortgage.

Net Revenues Available for Debt Service: the Gross Revenues for a specified period, less the total Operating Expenses of the Borrower for the same specified period (excluding extraordinary losses and expenses or non-recurring items), as determined in accordance with generally accepted accounting principles, to which shall be added the amount of all depreciation, amortization and interest expense, all for the same specified period.

Operating Expenses: for any period of calculation, the aggregate, calculated in accordance with generally accepted accounting principles, of all operating expenses of the Borrower.

Origination Fee: has the meaning given such term in Section 3.6 hereof.

Parity Debt: has the meaning given such term in Section 5.16 hereof.

Payment Date: this term shall have the meaning provided in the Series 2019C Note.

Permitted Encumbrances: has the meaning provided in the Mortgage.

Person: any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated organization, government, or any agency or political subdivision thereof, or any other form of entity.

Plans and Specifications: the plans and specifications for the proposed construction of the Series 2019 Project, to be approved by the Borrower, acceptable to the Lender, and available for inspection by the Lender, as the same may be modified from time to time.

Prepayment Premium: has the meaning given such term in the Series 2019C Note.

Principal Balance: so much of the principal sum on the Series 2019C Note as from time to time remains unpaid.

Project Architect: Doran Architects, LLC, a Minnesota limited liability company.

Project Costs: any and all sums of money required to acquire, construct and equip the Series 2019 Project, excluding Issuance Expenses, as more fully described in the Disbursing Agreement, but including the following:

(a) the expense of preparation of the Plans and Specifications and of all other architectural, engineering, testing, and supervisory services incurred and to be incurred in the planning, construction, and completion of the Series 2019 Project as approved by the Lender;

(b) the cost of acquisition and installation of all items of equipment, machinery, or furnishings included in the Series 2019 Project as approved by the Lender;

(c) premiums on all insurance relating to construction during the period before completion of the Series 2019 Project, to the extent that such premiums are not paid by a contractor;

(d) the contract price of all labor, services, materials, supplies, equipment, and remodeling furnished under a construction contract as approved by the Borrower and the Lender;

(e) the cost of all other labor, services, materials, supplies, and equipment necessary to complete the acquisition, construction, expansion, and equipping of the Series 2019 Project as approved by the Lender;

(f) all interest accruing on money borrowed by the Borrower for financing of the Series 2019 Project during construction and up to six (6) months thereafter for a term no longer than twenty-four months from the Date of Issuance;

(g) without limitation by the foregoing, all other expenses which under generally accepted accounting principles constitute necessary capital expenditures for the Series 2019 Project, which are approved by the Lender, and are authorized by the Act to be paid from the proceeds of the Note; and

(h) all advances, payments, and expenditures made or to be made by the Issuer and any other person with respect to any of the foregoing expenses so long as approved by the Lender.

Repair and Replacement Reserve Fund: the fund held by the Lender and described in Section 5.21 hereof.

Resolution: the resolution adopted by the City Council of the Issuer on August 20, 2019, authorizing the issuance of the Series 2019C Note and authorizing the execution and delivery of this Loan Agreement, the Assignment of Loan Agreement, and the Cooperative Agreement, together with any supplement or amendment thereto.

Security Agreement: the Security Agreement, dated August 22, 2019, by the Borrower in favor of the Lender, and all amendments and supplements thereto.

Series 2014 Loan Agreement: the Loan Agreement, dated May 21, 2014, between the City of Bloomington and the Borrower, as amended by the First Amendment to Loan Agreement, dated August 22, 2019, between the City of Bloomington, the Borrower, and the Lender, as it may be further amended and supplemented from time to time.

Series 2014A Note: the Senior Housing Revenue Refunding Note (Founders Ridge Project), Series 2014A, issued by the City of Bloomington in the original aggregate principal amount of \$7,912,000.

Series 2014B Note: the Senior Housing Revenue Refunding Note (Founders Ridge Project), Series 2014B, issued by the City of Bloomington in the original aggregate principal amount of \$7,912,000.

Series 2014 Notes: together, the Series 2014A Note and the Series 2014B Note.

Series 2014 Project: a multifamily housing development located at 6600 Auto Club Road in the City of Bloomington comprised of (i) a four-story building for occupancy by seniors, comprised of fifty-six (56) independent living apartments for seniors; (ii) a three-story building for occupancy by seniors, comprised of sixteen (16) assisted-living apartments, nineteen (19) memory-care apartments, sixteen (16) high-acuity, assisted-living apartments, and one (1) respite unit; and (iii) a two-story town center area with various amenities.

Series 2019A Note: the Senior Housing Revenue Note (Founders Ridge Project), Series 2019A, issued by the City of St. Paul Park in the original aggregate principal amount of \$6,500,000.

Series 2019A Note Purchase Agreement: the Note Purchase Agreement, dated August 5, 2019, between the City of St. Paul Park, the Borrower, and the Lender, providing for the purchase of the Series 2019A Note by the Lender.

Series 2019B Note: the Senior Housing Revenue Note (Founders Ridge Project), Series 2019B, issued by the City of Medina in the original aggregate principal amount of \$10,000,000.

Series 2019C Note: the Senior Housing Revenue Note (Founders Ridge Project), Series 2019C, to be issued by the Issuer in the original aggregate principal amount of \$9,000,000.

Series 2019 Notes: collectively, the Series 2019A Note, the Series 2019B Note, and the Series 2019C Note.

Series 2019 Project: the acquisition, construction and equipping of approximately 111 independent senior living apartments as an addition to the Series 2014 Project.

State: the State of Minnesota.

Taxable Loan Agreement: the Tax Loan Agreement, dated August 22, 2019, between the Borrower and the Lender, as it may be amended, restated, replaced, or otherwise modified from time to time.

Title Company: First American Title Insurance Company.

Title Policy: an ALTA mortgagee's title insurance policy to be issued by the Title Company in favor of the Lender and the endorsements thereto required by the Lender in form and substance acceptable to the Lender.

Total Principal and Interest Requirements: for any Fiscal Year, the sum of the principal and interest requirements on the Series 2019 Notes and the principal and interest requirements on all other indebtedness of the Borrower during such Fiscal Year.

Treasury Regulations: all proposed, temporary, or permanent federal income tax regulations then in effect and applicable.

UCC: the Uniform Commercial Code as in effect from time to time in the State or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

Section 1.2. Rules of Interpretation.

(1) This Loan Agreement shall be interpreted in accordance with and governed by the laws of the State.

(2) The words "herein" and "hereof" and words of similar import, without reference to any particular section or subdivision, refer to this Loan Agreement as a whole rather than to any particular section or subdivision hereof.

(3) References herein to any particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

(4) Where the Borrower is permitted or required to do or accomplish any act or thing hereunder, the Issuer or the Lender may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Borrower.

(5) The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Loan Agreement.

(6) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(7) Articles, sections, subsections, and clauses mentioned by number only are those so numbered which are contained in this Loan Agreement.

(8) References to the Series 2019C Note as “tax exempt” or to the “tax-exempt status of the Series 2019C Note” are to the exclusion of interest on the Series 2019C Note from gross income under Section 103(a) of the Code.

(9) Time is of the essence of this Loan Agreement and all dates and time periods specified herein or therein shall be strictly observed.

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ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Issuer. The Issuer makes the following representations as the basis for its covenants herein:

(1) The Issuer is a municipal corporation duly organized and existing under the laws of the State.

(2) Pursuant to Section 462C.04, subdivision 2, of the Act, the Issuer, along with the City of Bloomington, the City of Medina, and the City of St. Paul Park, have developed a joint housing program providing for the issuance of Series 2019 Notes, and on or before the day on which notice of a public hearing regarding the housing program was published, the housing program was submitted to the Metropolitan Council for review and comment.

(3) On August 20, 2019, the Issuer adopted the Resolution granting approval to the issuance of the Series 2019C Note and the execution and delivery of the Loan Documents to which it is a party.

(4) No council member of the Issuer and no other elected or appointed official who is authorized to take part in the approval, execution, or delivery of this Loan Agreement or the issuance of the Series 2019C Note, is directly or indirectly interested in this Loan Agreement, the Series 2019C Note, the Series 2019 Project, or any contract or agreement hereby contemplated to be entered into or undertaken with respect to the Series 2019 Project.

(5) Pursuant to the Resolution, the Issuer has authorized and directed the Lender to disburse the proceeds of the Series 2019C Note directly to the Borrower and such other parties as may be entitled to payment or reimbursement for Project Costs, upon receipt of such supporting documentation as the Lender may deem reasonably necessary or as required by this Loan Agreement or the Disbursing Agreement.

(6) To the actual knowledge of the persons executing this Loan Agreement, without inquiry or investigation, the execution and delivery of this Loan Agreement, the Assignment of Loan Agreement, and the Series 2019C Note will not constitute a breach of or default under any existing agreement, indenture, mortgage, lease, or other instrument to which the Issuer is a party or by which it is bound.

Section 2.2. Representations by the Borrower. The Borrower makes the following representations as the basis for its covenants herein:

(1) The Borrower is a Minnesota nonprofit corporation duly incorporated and in good standing under the laws of the State, is duly authorized to conduct its business in all states where its activities require such authorization, has power to enter into the Loan Documents to which it is a party and to use the Series 2019 Project for the purpose set forth in this Loan Agreement, and by proper corporate action has authorized the execution and delivery of the Loan Documents to which it is a party.

(2) The Borrower is an Exempt Organization. The Borrower is not a “private foundation” as defined in Section 509(a) of the Code. Not more than five percent (5%) of the proceeds of the Series 2019C Note will be used, directly or indirectly, to finance or refinance property used in an unrelated trade or business of the Borrower determined by applying Section 513(c) of the Code or in the trade or business of any person other than an Exempt Organization. The Borrower has not been notified

by the Internal Revenue Service of any revocation, modification, withdrawal, or rescission of the ruling or determination letter recognizing the Borrower as an Exempt Organization, and the ownership and operation of the Series 2019 Project is not an “unrelated trade or business” of the Borrower within the meaning of Section 513 of the Code. There is no action, proceeding, or investigation pending or threatened by the Internal Revenue Service or authorities of the State which, if adversely determined, might result in a modification of the status of the Borrower as an Exempt Organization.

(3) The execution and delivery of the Loan Documents to which the Borrower is a party, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any of the terms or conditions of the Borrower’s articles of incorporation, its bylaws, any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing or a violation of any order, decree, statute, rule, or regulation of any court or of any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Series 2019 Project, and do not and will not result in the creation or imposition of any lien, charge, or encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound. The Borrower represents and warrants that the Borrower’s execution, delivery, and performance of the Loan Documents to which it is a party do not require the consent or approval of or the giving of notice to any person which approval has not been duly obtained or which notice has not been duly given.

(4) The proceeds of the Series 2019C Note will be used only for the purposes contemplated hereby and permitted under the provisions of the Act.

(5) The Borrower is not in the trade or business of selling properties such as the Series 2019 Project and is undertaking the Series 2019 Project for use by the Borrower in the activities for which the Borrower was determined to be an Exempt Organization. The Borrower has no intention now or in the foreseeable future to voluntarily sell, surrender, or otherwise transfer, in whole or part, its interest in the Series 2019 Project.

(6) The Borrower represents and warrants that there is no litigation, arbitration, legal or administrative proceeding, tax audit, investigation, or other action of any nature pending or, to the knowledge of the Borrower, threatened against, likely to be instituted against, or affecting the Borrower or Guarantor or any of their respective properties which would have a material adverse effect on their respective financial condition. The Borrower and Guarantor are not subject to any outstanding court or administrative order, writ, or injunction which would have a material adverse effect on their respective financial condition. To the best of the Borrower’s knowledge, information, and belief, no facts exist that give material adverse claims to third parties against the Borrower and Guarantor, except as disclosed in the Financial Statements.

(7) The Borrower represents and warrants that the Borrower and Guarantor are not in default in any respect that affects their respective businesses, properties, operations, or condition, financial or otherwise, under any indenture, mortgage, deed of trust, credit agreement, note, agreement, lease, sale agreement, or other instrument to which the Borrower and Guarantor are a party or by which their respective properties are bound. To the best of the Borrower’s knowledge, information, and belief, no other party to any contract with the Borrower or Guarantor is in default or breach thereof and no circumstances exist which, with the giving of notice and/or the passing of time, would constitute such default or breach. As of the date hereof, no “Event of Default” exists under this Loan Agreement.

(8) The Borrower represents and warrants that the Borrower and the Guarantor have filed all federal and state income tax returns which, to the knowledge of the officers of the Borrower, are required to be filed and have paid all taxes shown on said returns and all assessments and governmental charges received by the Borrower and Guarantor to the extent that they have become due.

(9) No public official of the Issuer has either a direct or indirect financial interest in this Loan Agreement nor will any public official either directly or indirectly benefit financially from this Loan Agreement.

(10) The Borrower has approved the terms and conditions of the Series 2019C Note and the other Loan Documents.

(11) The financial information supplied to the Lender truly and completely discloses the financial condition of the Borrower and Guarantor as of the date of such information, and there have been no material, adverse changes in the financial condition of the Borrower and Guarantor subsequent to the date of the most recent Financial Statement supplied to the Lender.

(12) This Loan Agreement and the other Loan Documents to which the Borrower is a party, when executed and delivered by the Borrower, constitute legal, valid, and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms (subject, as to enforceability, to limitations resulting from bankruptcy, insolvency, and other similar laws affecting creditors' rights generally). The Borrower covenants and agrees to promptly cure, and ratify the cure of, any defects in the creation, issuance, and delivery of the Loan Documents to which it is a party. The Borrower covenants and agrees, at its expense, to execute (or cause to be executed) and deliver to the Lender upon request all such other and further documents, agreements, and instruments in compliance with the covenants and agreements of the Borrower in the Loan Documents to which it is a party, or to evidence further and to describe more fully any collateral intended as security for the Series 2019C Note, or to correct any omissions in the Loan Documents to which it is a party, or to state more fully the obligations and agreements set out in the Loan Documents to which it is a party, or to perfect, protect, or preserve any encumbrances created pursuant to the Loan Documents to which it is a party, or to make any recordings, to file any notices, or to obtain any consents, all as may be reasonably necessary or appropriate in connection therewith.

(13) No proceeds of the Series 2019C Note will be used to finance facilities primarily used for any religious purpose.

(14) The Borrower covenants and agrees to pay all filing, registration, or recording fees, and all expenses incident to the execution and acknowledgment of this Loan Agreement and the other Loan Documents and any extension, amendment, or renewal thereof.

(15) The Series 2019 Project constitutes a multifamily housing development, within the meaning of the Act, designed for rental primarily to elderly persons without regard to the limitations and conditions set forth in Sections 462C.03 and 462C.05, subdivision 2 of the Act, all as provided in Section 462C.05, subdivision 4 of the Act.

(16) The Series 2019 Project presently complies and shall at all times comply with all applicable building, zoning, and environmental restrictions, and other requirements or restrictions enacted or promulgated by the State or any political subdivision or agency thereof or by the government of the United States of America or any agency thereof, and any restrictions of record which might limit or effect the intended use of the Series 2019 Project. The Borrower has obtained all consents, permits, and licenses

necessary to be obtained as of the date hereof to construct, occupy and operate the Series 2019 Project for its intended purposes.

(17) The Borrower has, as of the date hereof, permitted no work on the Series 2019 Project which could give rise to a lien on the Mortgaged Property or any portion of the Series 2019 Project or, if such work has commenced, has provided adequate waivers, indemnifications, and other assurances to the Title Company so that the Title Policy and all endorsements thereto can be issued without exception for filed or unfiled mechanics/construction liens.

(18) The Borrower has not guaranteed the obligations of any other Person.

(19) The Borrower agrees that the foregoing representations and warranties shall be continuing in nature and shall remain in full force and effect until such time as the Loan shall be paid in full.

(20) The Borrower has no current intention to sell or otherwise dispose of any part of the Mortgaged Property included in the Series 2019 Project during the term of the Series 2019C Note.

(21) The Borrower represents and warrants that neither the business nor the Mortgaged Property of the Borrower is impaired as a result of any fire, explosion, earthquake, flood, drought, windstorm, accident, strike or other labor disturbance, embargo, requisition or taking of property, cancellation of contracts, permits, concessions by any domestic or foreign government or any agency thereof, riot, activities of armed forces or acts of God or of any public enemy.

Section 2.3. Lender May Rely on Representations. The Issuer and the Borrower agree that the representations contained in this Article II are for the use and benefit of the Issuer and the Lender, and the Lender shall be entitled to rely thereon.

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ARTICLE III

THE LOAN

Section 3.1. Amount and Source of Loan. The Issuer has authorized the issuance of the Series 2019C Note in the aggregate principal amount of \$9,000,000 to provide funds to the Borrower to finance the Series 2019 Project. The Issuer agrees to lend to the Borrower and the Borrower agrees to borrow from the Issuer, upon the terms and conditions herein and in the Series 2019C Note, the principal sum of \$9,000,000 by having the proceeds of the Series 2019C Note applied and disbursed in accordance with the provisions hereof and the Disbursing Agreement. Upon the execution and delivery of this Loan Agreement, the other Loan Documents, and all other documents and instruments necessary to the transactions contemplated hereby and the recording and filing of such documents as may be required to be filed or recorded by the Lender or Bond Counsel, the Issuer will execute the Series 2019C Note and cause the Series 2019C Note to be delivered to the Lender.

Section 3.2. Requirements to Disbursement of the Loan. Prior to any advance of the proceeds of the Series 2019C Note the disbursement of the proceeds of the Series 2019C Note, the following documents shall be delivered to the Lender, each in form and substance acceptable to the Lender:

- (1) Series 2019C Note;
- (2) Loan Agreement;
- (3) Assignment of Loan Agreement;
- (4) UCC-1 Financing Statement from Issuer as debtor to the Lender as secured party (as to the Loan Agreement);
- (5) Guaranty Agreement;
- (6) Cooperative Agreement;
- (7) Disbursing Agreement;
- (8) Security Agreement;
- (9) UCC-1 Financing Statement from Borrower as debtor to the Lender as secured Party (as to the Security Agreement);
- (10) Mortgage;
- (11) UCC-1 Financing Statement from Borrower as debtor to the Lender as secured Party (as to the Mortgage);
- (12) Construction Documents;
- (13) Collateral Assignment of Management Agreement;
- (14) Environmental and ADA Indemnification Agreement;
- (15) Amended and Restated Property Management Agreement;

- (16) Proforma marked and initialed Title Policy issued by the Title Company;
- (17) Certificates of liability, builder's risk, property, business interruption, and workers compensation insurance for the Borrower;
- (18) UCC lien search with respect to the Borrower, together with state and federal tax lien, judgment and bankruptcy searches;
- (19) Certificate of flood insurance;
- (20) Zoning letter addressed to the Lender;
- (21) Affidavit of the Borrower regarding business entity executed by the Borrower;
- (22) Loan closing statement executed by the Borrower and the Title Company;
- (23) Utility letters for gas, electric, sewer and water, cable and telephone;
- (24) Phase I Environmental Site Assessment addressed to the Lender, together with executed copies of all environmental reports and investigations affecting the Mortgaged Property, all of which shall be acceptable to, and in favor of, the Lender, and all applicable reliance letters with respect to such reports and investigations addressed to the Lender;
- (25) ALTA/NSPS Land Title survey;
- (26) Appraisal;
- (27) Financial statements of the Borrower;
- (28) Payment of the Lender's Origination Fee;
- (29) Establishment of depository/treasury management relationship with the Lender;
- (30) Certificate of the Issuer;
- (31) Certificate of the Borrower;
- (32) Tax certificate of the Borrower and endorsed by the Issuer;
- (33) Opinion of Bond Counsel to the effect that the Issuer has duly authorized, executed, and delivered the Series 2019C Note, that the Series 2019C Note is enforceable in accordance with its terms, and that the interest thereon is exempt from federal income taxation;
- (34) Payment of all costs and expenses of the Issuer and the Lender;
- (35) Opinion of Borrower's counsel;
- (36) All other Lender Documents;

(37) Such other items, papers and documents as may be required by this Loan Agreement or the other Loan Documents or as the Lender may reasonably require; and

(38) Any certification, instrument, assignment or other document referenced in or required by any of the foregoing.

Section 3.3. Disbursement of the Loan. The Issuer has authorized the Lender to advance the proceeds of the Series 2019C Note pursuant to the terms of the Disbursing Agreement. On the Date of Issuance, the Lender has disbursed proceeds of the Series 2019C Note to the Borrower for reimbursement of Project Costs in the amount of \$_____ and Issuance Expenses in the amount of \$_____ pursuant to the terms of the Disbursing Agreement. The remaining principal of the Series 2019C Note will be drawn down pursuant to the terms of the Disbursing Agreement.

Section 3.4. Repayment. Subject to the prepayment provisions set forth in the Series 2019C Note and in Article VI hereof, the Borrower agrees to repay the Loan by making all payments of principal, interest and any premium, penalty or charge that are required to be made by the Issuer under the Series 2019C Note at the times and in the amounts provided therein. All payments shall be made directly to the Lender at such office of the Lender as it shall designate from time to time for the account of the Issuer. The Borrower represents and covenants that the source of payment of the Series 2019C Note is from revenues derived from the operation of the Series 2019 Project and other amounts available to the Borrower.

Section 3.5. Borrower's Obligations Unconditional. All payments required of the Borrower hereunder shall be paid without notice or demand and without setoff, counterclaim, abatement, deduction, or defense. The Borrower will not suspend or discontinue any payments, and will perform and observe all of its other agreements in this Loan Agreement and the other Loan Documents and, except as expressly permitted herein, will not terminate this Loan Agreement and the other Loan Documents for any cause, including but not limited to any acts or circumstances that may constitute failure of consideration, destruction or damage to the Series 2019 Project, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the Issuer or the Lender, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State or any political subdivision thereof, or failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Loan Agreement.

Section 3.6. Payment of Costs, Administrative Fee and Origination Fee. In addition to the Loan repayments required pursuant to Section 3.4 hereof, the Borrower shall have remit to the Issuer an Administrative Fee in the amount of \$45,000 (50 basis points of the principal amount of the Series 2019C Note) on the Date of Issuance.

In addition to the Loan repayments payable pursuant to Section 3.4 hereof and the Administrative Fee payable pursuant to this Section 3.6, the Borrower shall pay to the Lender concurrently with the execution of this Loan Agreement a wholly earned non-refundable origination fee of \$45,000 (the "Origination Fee").

In addition to the Loan repayments payable pursuant to Section 3.4 hereof and the Administrative Fee and Origination Fee payable pursuant to this Section 3.6, the Borrower shall pay to the Issuer and the Lender, when due and at the times requested by the Issuer and the Lender, amounts sufficient to pay in full all reasonable out-of-pocket costs and expenses of the Issuer and the Lender incurred in the issuance and payment of the Series 2019C Note and the making and collection of the Loan, including, without limitation: (i) all costs incurred in connection with the purchase, transfer, registration, exchange, or redemption of the Series 2019C Note; (ii) the reasonable fees and other costs incurred for services of such

engineers, architects, attorneys, management consultants, accountants, and other consultants as are employed by the Issuer or the Lender to make examinations or reports, provide services, or render opinions required or permitted by this Loan Agreement; (iii) all costs reasonably incurred by the Issuer or the Lender in the amendment, waiver, or enforcement of the Series 2019C Note, this Loan Agreement, or any other Loan Document; and (iv) all costs of issuing the Series 2019C Note.

Section 3.7. Interest Reserve. Notwithstanding the foregoing, \$277,099 of the Series 2019C Note shall be restricted and held back by the Lender as an interest reserve to be advanced by the Lender to pay the initial monthly installments of accrued interest due under the Series 2019C Note as and when said monthly installments are due (the “Interest Reserve”). Once the Interest Reserve is fully expended, the Borrower shall pay the monthly installments of accrued interest in accordance with the repayment provisions set forth in the Series 2019C Note and in this Loan Agreement.

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ARTICLE IV

THE SERIES 2019 PROJECT

Section 4.1. Maintenance and Modification of Series 2019 Project by the Borrower. The Borrower agrees that at all times during the term of this Loan Agreement, the Borrower will, at the Borrower's own expense, maintain, preserve, and keep the Series 2019 Project open as a senior housing facility, with the appurtenances and every part and parcel thereof, open as a senior housing facility and in good repair, working order, and condition and that the Borrower will from time to time make all repairs, replacements, and renewals deemed proper and necessary by it. The Borrower agrees that it will administer, maintain, and operate the Series 2019 Project in a manner such that the Series 2019 Project is open to members of the general public, free of discrimination based upon race, creed, color, sex, or national origin.

In addition, after November 22, 2020, the Borrower shall have the privilege of remodeling the Series 2019 Project or making substitutions, additions, modifications, and improvements to the Series 2019 Project from time to time as the Borrower, in its discretion, may deem to be desirable for the Borrower's use for such purposes as shall be permitted by the Act, the costs of which remodeling, substitutions, additions, modifications, and improvements shall be paid by the Borrower, and the same shall be the property of the Borrower and be included under the terms of this Loan Agreement as part of the Series 2019 Project, respectively; provided, however, that all such remodeling, substitutions, additions, modifications, and improvements shall be done in a good and workmanlike manner and in compliance with all laws and the Series 2019 Project, as remodeled, improved, or altered, upon completion of such remodeling, substitutions, additions, modifications, and improvements made pursuant to this Section 4.1 shall be of a value not less than the fair market value of the Series 2019 Project immediately prior to the remodeling or the making of substitutions, additions, modifications, and improvements. The prior written consent of the Lender is not required if the total cost of such remodeling, substitutions, additions, modifications, and improvements to the Series 2019 Project do not exceed \$500,000. The prior written consent of the Lender is required if the total cost of such remodeling, substitutions, additions, modifications, and improvements to the Series 2019 Project exceeds \$500,000.

The Borrower may from time to time after November 22, 2020, in its sole discretion and at its own cost and expense, install or place other equipment and tangible personal property in the Series 2019 Project. The Borrower may remove such equipment and tangible personal property at any time after November 22, 2020, at its own cost and expense, whether or not the same shall have been affixed or annexed to the Series 2019 Project, but any damage caused to the Series 2019 Project by any such removal shall be repaired at the sole cost and expense of the Borrower.

Section 4.2. Utilities. The Borrower agrees to pay or cause to be paid, when due, all utility charges which are incurred for the benefit of the Series 2019 Project or which may become a charge or lien against the Mortgaged Property for energy, fuel, gas, electricity, water, or sewer services furnished to the Series 2019 Project and all other charges of a similar nature, whether public or private, affecting the Mortgaged Property or any portion thereof, whether or not such charges are liens thereon.

Section 4.3. Liens and Encumbrances. The Borrower represents and warrants that, as of the date of execution of this Loan Agreement, there exists no lien, charge or encumbrance, other than Permitted Encumbrances, upon the Mortgaged Property, or any Loan repayment, prior to this Loan Agreement or the Mortgage. Except as otherwise permitted by the provisions of this Loan Agreement or the Mortgage, the Borrower will not create or suffer to be created any lien, encumbrance or charge upon the Mortgaged Property, other than Permitted Encumbrances, it will satisfy or cause to be discharged, or

will make adequate provision to satisfy and discharge, within thirty (30) days after the same shall occur, all lawful claims and demands for labor, materials, supplies or other items which, if not satisfied, might by law become a lien upon the Mortgaged Property. If any such lien shall be filed or asserted against the Mortgaged Property, or any installment of Loan repayments, by reason of work, labor, services or materials supplied or claimed to have been supplied, the Borrower shall within thirty (30) days after it receives notice of the filing thereof or the assertion thereof, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Mortgaged Property, or any installment of Loan repayments, by contest, payment, deposit, bond, order of court or otherwise.

Section 4.4. Insurance Coverage. The Borrower shall obtain and maintain at all times during the process of construction of the Series 2019 Project the insurance described in subsections (a), (b) and (c) below and at all times thereafter the insurance described in subsections (d) and (e) below, and from time to time, at the request of the Lender, to furnish the Lender with proof of payment of premiums on the following:

(a) Builders' risk insurance, written on a so-called "Builders' Risk -- Completed Value Basis," in an amount equal to one hundred percent (100.00%) of the insurable value of the Series 2019 Project at the date of completion, and with coverage available on a so-called "all risk," non-reporting form of policy, the Lender's interest to be protected in accordance with a mortgagee and lender loss payable clause in form and content satisfactory to the Lender.

(b) Comprehensive general liability insurance, including operations, contingent liability, operations of contractors, complete operations, and contractual liability insurance, in such amounts as the Lender may reasonably require from time to time, which names the Lender as an additional insured.

(c) Workers' compensation insurance with statutory coverage; provided that the Borrower may be self-insured with respect to all or any part of its liability for workers' compensation.

(d) The insurance required by Lender pursuant to the Mortgage.

(e) Such other insurance as the Lender may reasonably request.

Such policies of insurance shall be in form and content reasonably satisfactory to the Lender and shall be placed with financially sound and reputable insurers licensed to transact business in the State and shall contain an agreement of the insurer to give not less than thirty (30) days' advance written notice to the Borrower in the event of cancellation, change or non-renewal of such policy affecting the coverage thereunder, which notice shall be transmitted by the Borrower to the Lender; acceptance of such insurance policies shall not bar the Lender from requiring additional insurance (either in type or amount) at a later date which it reasonably deems necessary.

Section 4.5. Prohibition Against Removal or Material Alteration. No portion of the Series 2019 Project shall be removed, demolished or materially altered or enlarged (other than the initial construction of the Series 2019 Project), nor shall any new improvements (other than the initial construction of the Series 2019 Project) be constructed thereon, without the prior written consent of the Lender.

Section 4.6. Installation and Removal of Equipment by the Borrower. The Borrower may from time to time in its sole discretion install or place within the Series 2019 Project or elsewhere on the Mortgaged Property items of personalty. All such items so installed by the Borrower shall become part of the Series 2019 Project and be included under the terms of this Loan Agreement and subject to the lien of the Mortgage and Security Agreement.

Section 4.7. Americans With Disabilities Act. The Borrower represents and warrants that the Mortgaged Property and the Series 2019 Project will comply with the Americans with Disabilities Act of 1990.

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ARTICLE V

BORROWER'S COVENANTS

Section 5.1. Indemnity. The Borrower will, to the extent permitted by law, pay, and will protect, indemnify, and save the Issuer, its officers, agents, and employees, and the Lender, its officers, agents, and employees, harmless from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands and judgments of any nature arising from:

(1) any injury to or death of any person or damage to property in or upon the Series 2019 Project or growing out of or connected with the use, non-use, condition, or occupancy of the Series 2019 Project or a part thereof;

(2) violation of any agreement or condition of this Loan Agreement, except by the Issuer or its assignee or the Lender or its assignee;

(3) violation of any contract, agreement, or restriction by the Borrower relating to the Series 2019 Project;

(4) violation by Borrower of any law, ordinance, or regulation affecting the Series 2019 Project or a part thereof or the ownership, occupancy, or use thereof, or arising out of this Loan Agreement, the Series 2019C Note, or the transactions contemplated thereby; and

(5) any statement or information relating to the expenditure of the proceeds of the Series 2019C Note contained in the tax certificate delivered by the Borrower at Closing or similar document furnished by the Borrower to the Issuer and the Lender which, at the time made, is misleading, untrue, or incorrect in any material respect.

The Borrower will further pay, and will protect, indemnify, and save the Issuer and the Lender (and any subsequent owner or owners of the Series 2019C Note) harmless from and against all liabilities, losses, damages, costs, and expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands, and judgments of any nature arising from the issuance or sale of the Series 2019C Note and the performance of their duties and obligations hereunder, other than liabilities, losses, damages, costs, and expenses occasioned by the gross negligence, default, or willful misconduct of the Issuer or the Lender.

Section 5.2. Continuing Existence and Qualification. Throughout the term of this Loan Agreement, the Borrower will remain duly qualified to do business as a nonprofit corporation in the State, will continue to operate as an Exempt Organization, will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation or other business entity or permit any other corporation or other business entity to consolidate with or merge into it unless the Lender has consented to such actions in writing and (1) the surviving, resulting, or transferee corporation, or other business entity, as the case may be, shall be a nonprofit corporation operating under the laws of the United States, any state or the District of Columbia, and an Exempt Organization (provided the Series 2019 Project will not constitute an unrelated trade or business within the meaning of Section 513(e) of the Code) or a governmental unit under Section 145 of the Code; (2) the surviving, resulting, or transferee corporation, or other business entity, as the case may be, if other than the Borrower, assumes in writing all of the obligations of the Borrower under this Loan Agreement and the other Loan Documents to which it is a party and shall deliver that instrument to the

Lender; and (3) the surviving, resulting, or transferee corporation or other business entity, as the case may be, is duly qualified to do business in the State. Every surviving, resulting, or transferee corporation and other entity referred to in this Section 5.2 shall be bound by all of the covenants and agreements of the Borrower herein with respect to any further consolidation, merger, sale, or transfer.

Section 5.3. Security for the Loan. As additional security for the Lender, and to induce the Issuer to issue and deliver the Series 2019C Note, the Borrower agrees to execute and deliver the Loan Documents to which it is a party and agrees to meet all its obligations under the Loan Documents, which documents shall remain in effect until all payments required hereunder have been made; and the Borrower will cause to be recorded and filed the Mortgage, UCC-1 Financing Statements, and such other documents requested by the Lender or Bond Counsel, in such places and in such manner as the Lender or Bond Counsel deems necessary or desirable to perfect or protect the security interest of the Lender in and to the Series 2019 Project and other collateral referred to in said documents. In addition, the Borrower shall cause the Guarantor to provide the Guaranty Agreement and the other Loan Documents applicable to the Guarantor to the Lender.

Section 5.4. Preservation of Tax Exemption.

(1) The Borrower covenants and agrees that, in order to assure that the interest on the Series 2019C Note shall at all times be excludable from gross income for federal income tax purposes, the Borrower represents and covenants with the Issuer and the Lender that it will comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and the Borrower specifically represents, covenants, and agrees as follows:

- (a) The Series 2019 Project will be owned and operated by the Borrower.
- (b) The Series 2019 Project shall not be used by the Borrower in an unrelated trade or business, determined by the application of Section 513(a) of the Code.
- (c) No more than five percent (5%) of the proceeds of the Series 2019C Note, less any proceeds applied to Issuance Expenses, are to be used for any private business use, as defined in Section 141(b)(6) of the Code, or for any unrelated trade or business of an Exempt Organization.
- (d) The payment of the principal of, or interest on, no more than five percent (5%) of the proceeds of the Series 2019C Note is (under the terms of the Series 2019C Note or any underlying arrangement) directly or indirectly (i) secured by any interest in (A) property used or to be used for a private business use or for any unrelated trade or business of an Exempt Organization, or (B) payments in respect of such property, or (ii) to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use or for any unrelated trade or business of an Exempt Organization.
- (e) The weighted average maturity of the Series 2019C Note does not exceed one hundred twenty percent (120%) of the estimated economic life of the Series 2019 Project financed with the proceeds of the Series 2019C Note, all within the meaning of Section 147(b) of the Code.
- (f) While the Series 2019C Note remains outstanding, no portion of the proceeds of the Series 2019C Note shall be used to provide any airplane, skybox or other private luxury box, any facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(g) Any Issuance Expenses financed by the Series 2019C Note shall not exceed two percent (2%) of the principal amount of the Series 2019C Note.

(h) The Borrower covenants for the benefit of the Lender and any subsequent holders of the Series 2019C Note that, with respect to the proceeds of the Series 2019C Note and the earnings thereon and with respect to money or obligations which are treated as “gross proceeds” under the provisions of Section 148 of the Code, no use thereof or of any other money of the Borrower shall be made which will cause the Series 2019C Note to be deemed to be “arbitrage bonds” within the meaning of Section 148 of the Code. For purposes of the preceding sentence, the provisions of Section 148 of the Code shall be deemed to include any rules or regulations (whether proposed, temporary, or final) which, due to retroactive application or for other reasons, are applicable to the Series 2019C Note. The Borrower hereby agrees to take any reasonable actions which the Lender deems necessary to ensure compliance with Section 148 of the Code, including amending this Loan Agreement. Specifically, the Borrower shall: (i) maintain records identifying all “gross proceeds” and “replacement proceeds” (as defined in Section 148(f)(6)(B) of the Code) attributable to the Series 2019C Note, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Series 2019C Note) and any earnings derived from the investment of such arbitrage profit; (ii) make, or cause to be made as of the end of each fifth bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States (the “Rebate Amount”); (iii) pay, or cause to be paid, to the United States at least once every fifth bond year the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than sixty (60) days after the day on which the Series 2019C Note is paid in full; (iv) not invest, or permit to be invested, any gross proceeds of the Series 2019C Note in any acquired nonpurpose obligations so as to deflect arbitrage otherwise payable to the United States as a “prohibited payment” to a third party; and (v) retain all records of the annual determination of the foregoing amounts until six (6) years after the Series 2019C Note have been fully paid.

(i) The Borrower covenants with the Issuer and the Lender that it will take no action, and it will not fail to take an action, if the effect would be to cause, permit, or otherwise result in the interest on the Series 2019C Note becoming includable in gross income for purposes of federal income taxation or a Determination of Taxability with respect to the Series 2019C Note. At the request of the Lender, the Borrower shall obtain (at its own cost) and deliver to the Lender an opinion of nationally recognized bond counsel to the effect that interest on the Series 2019C Note is not includable in gross income for purposes of federal income taxation. The Borrower makes the following representations with respect to the proceeds of the Series 2019C Note: (i) the Borrower will not use the proceeds of the Series 2019C Note or the Series 2019 Project in any manner which would cause the Series 2019C Note to be a “private activity bond” other than a “qualified 501(c)(3) bond” within the meaning of the Code; and (ii) the Borrower agrees that, throughout the term of this Loan Agreement, it will operate the Series 2019 Project in such a manner as is necessary to conform to the policies and purposes of the Code and the requirements of Section 147 of the Code in effect on the Date of Issuance of the Series 2019C Note. Specifically, and without limitation, the Borrower covenants that it will not use any part of the Series 2019 Project for any unlawful purpose.

(j) The Series 2019A Note was sold to the Lender on August 5, 2019 pursuant to the Series 2019A Note Purchase Agreement. The Series 2019B Note was sold to the Lender on August 22, 2019. The Series 2019C Note was sold to the Lender on September 6, 2019. No other obligations have been or are expected to be issued under Section 103(a) of the Code for sale

at substantially the same time (within fifteen (15) days) as the Series 2019C Note is sold, pursuant to the same plan of financing, including notes for the same facility or related facilities, and which are reasonably expected to be paid from substantially the same source of funds, determined without regard to guarantees from unrelated parties, or to otherwise become part of the same “issue of obligations” of the Series 2019C Note as described in Section 1.150-(1)(c)(1) of the Treasury Regulations, so as to impair the exclusion from gross income under Section 103 of the Code of the interest on the Series 2019C Note.

(k) The Borrower has not leased, sold, assigned, granted, or conveyed, and will not lease, sell, assign, grant, or convey, all or any portion of the Series 2019 Project, or any interest therein, to the United States or any instrumentality or agency thereof within the meaning of Section 149(b) of the Code. No proceeds of the Series 2019C Note shall be invested in investments which cause the Series 2019C Note to be federally guaranteed within the meaning of Section 149(b) of the Code.

(l) The Series 2019 Project is suitable for rental occupancy primarily by elderly persons, and no part of the Series 2019 Project which is financed with the Series 2019C Note is designed for use or will be used primarily for religious instruction or as a place for devotional activities or religious worship.

(m) In order to qualify the Series 2019C Note and this Loan Agreement under the “governmental program” provisions of Section 1.148-1(b) of the Treasury Regulations, the Borrower (and any “related person” thereto) will take no action the effect of which would be to disqualify this Loan Agreement as an “acquired program obligation” under said Section 1.148-1(b), including but not limited to entering into any arrangement, formal or informal, for the purchase by the Borrower of any portion of the Series 2019C Note.

(n) The Borrower will not otherwise use the proceeds of the Series 2019C Note, or take or fail to take any action, the effect of which would be to cause interest on the Series 2019C Note to be includable in gross income for federal income tax purposes.

(2) For the purpose of this Section, a “Determination of Taxability” shall mean the issuance of a statutory notice of deficiency by the Internal Revenue Service, or a ruling of the National Office or any District Office of the Internal Revenue Service, or a final decision of a court of competent jurisdiction, or a change in any applicable federal statute, which holds or provides in effect that the interest payable on the Series 2019C Note is includable, for federal income tax purposes under Section 103 of the Code, in the gross income of the Lender or any other holder or prior holder of the Series 2019C Note, if the period, if any, for contest or appeal of such action, ruling, or decision by the Borrower or Lender or any other interested party has expired without any such contest or appeal having been properly instituted by the Lender, the Borrower, or any other interested party. The expenses of any such contest shall be paid by the party initiating the contest, and neither the Lender nor the Borrower shall be required to contest or appeal any Determination of Taxability. The “Date of Taxability” shall mean that point in time, as specified in the determination, ruling, order, or decision that the interest payable on the Series 2019C Note becomes includable in the gross income of the Lender or any other holder or prior holder of the Series 2019C Note, as the case may be, for federal income tax purposes.

(3) If the Borrower receives a Determination of Taxability it shall promptly give notice of such Determination of Taxability to the Issuer and the Lender. Upon receipt of a Determination of Taxability, at the option of the Lender, either (i) the Series 2019C Note shall be subject to mandatory redemption in accordance with the terms of the Series 2019C Note and Section 6.2 hereof, or (ii) the

interest rate of the Series 2019C Note shall be increased in accordance with the terms of the Series 2019C Note from and after the Date of Taxability.

Section 5.5. Lease or Sale of Series 2019 Project. The Borrower shall not lease, sell, convey, or otherwise transfer the Series 2019 Project, in whole or part, without first securing the written consent of the Lender; provided that in no event shall such lease, transfer, assignment, sale, or conveyance be permitted if the effect thereof would otherwise be to impair the validity or the tax-exempt status of the Series 2019C Note, nor shall any such transaction release the Borrower of any of its obligations under this Loan Agreement, unless the assignee-transferee is a surviving, resulting, or transferee entity as permitted under Section 5.2 hereof. The Borrower shall promptly notify the Issuer of any such sale, transfer, assignment, or lease.

Section 5.6. Series 2019 Project Operation and Maintenance Expenses. The Borrower shall pay all expenses of the operation and maintenance of the Series 2019 Project including, but without limitation, and in addition to the insurance requirements set forth in Section 4.4 hereof, fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages, and with insurance companies reasonably acceptable to the Lender, and all taxes and special assessments levied upon or with respect to the Series 2019 Project and payable during the term of this Loan Agreement, all in conformance with the provisions of the Mortgage. Upon request of the Lender from time to time, the Borrower will deliver policies or certificates of insurance in form satisfactory to the Lender, evidencing compliance with the foregoing requirement.

Section 5.7. Notification of Changes. The Borrower covenants and agrees that it will promptly notify the Lender of:

(1) any litigation which might materially and adversely affect the Borrower, the Guarantor, the Mortgage Property and any of their other properties;

(2) the occurrence of any Event of Default under this Loan Agreement, the other Loan Documents or under any other loan agreement, debenture, note, purchase agreement or any other agreement providing for the borrowing of money by the Borrower or any event of which the Borrower has knowledge and which, with the passage of time or giving of notice, or both, would constitute an Event of Default under this Loan Agreement, the other Loan Documents or under such other agreements;

(3) any future event that would cause the representations and warranties contained in this Loan Agreement to be untrue when applied to the Borrower's circumstances as of the date of such event; and

(4) any material adverse changes, either individually or in the aggregate, in the assets, liabilities, financial condition, business, operations, affairs, or circumstances of the Borrower or the Guarantor from those reflected in the Financial Statements or from the facts warranted or represented in this Loan Agreement or in the other Loan Documents.

Section 5.8. Additional Covenants. In addition to the covenants and agreements of the Borrower set forth herein and the documents related hereto, the Borrower hereby covenants and agrees, so long as the Series 2019C Note remains unpaid, as follows:

(1) All proceeds of the Series 2019C Note shall be used to finance the Series 2019 Project and to pay the Issuance Expenses of the Series 2019C Note.

(2) The Series 2019 Project shall comply with all applicable restrictions, conditions, ordinances, regulations, and laws of governmental departments and agencies having jurisdiction over the Series 2019 Project, and shall not violate any private restrictions or covenants or encroach upon or interfere with easements affecting the Mortgaged Property.

(3) The Borrower shall keep, perform, enforce, and maintain in full force and effect all of the terms, covenants, conditions, and requirements of this Loan Agreement, the Series 2019C Note, and the other Loan Documents, and shall not amend, modify, supplement, terminate, cancel, or waive any of the terms, covenants, conditions, or requirements of any of said documents without the prior written consent of the Lender.

(4) The Borrower shall not create, permit to be created, or allow to exist liens, charges or encumbrances on the Mortgaged Property other than Permitted Encumbrances and the lien of general real estate taxes and the installments of special assessments payable therewith except for such liens, charges, and encumbrances which are consented to by the Lender.

(5) The Borrower shall permit the Lender, acting by and through the Lender's officers, employees, and agents, to examine all books, records, contracts, plans, drawings, permits, bills, and statements of account pertaining to the Series 2019 Project and to make extracts therefrom and copies thereof.

(6) The Borrower shall furnish to the Issuer and the Lender as soon as possible and in any event within seven (7) Business Days after the Borrower has obtained knowledge of the occurrence of an Event of Default, or an event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement signed by the Borrower setting forth details of such Event of Default or event and the action which the Borrower has taken, is taking, or proposes to take to correct the same.

(7) The Borrower shall hold the Issuer and the Lender harmless, and the Issuer and the Lender shall have no liability or obligation of any kind to the Borrower, creditors of the Borrower, or any third party, in connection with any defective, improper, or inadequate workmanship performed in or about, or materials supplied with respect to, the Series 2019 Project, or any mechanics', suppliers' or materialmen's liens arising as a result of such defective, improper, or inadequate workmanship or materials, and upon the Lender's reasonable request, to replace or cause to be replaced, any such defective, improper or inadequate workmanship or materials.

(8) The Borrower shall pay and discharge all taxes prior to the attachment of penalties with respect thereof and installments of special assessments payable therewith, and insurance premiums with respect to the insurance required to be maintained by the Borrower under the terms of any Loan Documents, and utility charges incurred by the Borrower prior to or during the term of this Loan Agreement, except if such taxes, assessments and premiums are being contested in good faith by appropriate proceedings and provided that, if requested by the Lender, the Borrower shall have deposited into escrow with the Lender an amount equal to such taxes, assessments, or premiums plus penalties accrued thereon.

(9) The Borrower shall promptly give notice in writing to the Lender of any and all litigation involving the Borrower where the amount in dispute exceeds \$100,000.00 and is not covered by insurance, and of any and all material proceedings commenced against the Borrower by or before any court or governmental or regulatory agency.

(10) The Borrower shall comply with the requirements of all applicable laws, rules, regulations, and orders of any governmental authority, a breach of which would materially and adversely

affect the business or credit of the Borrower, except where diligently contested in good faith and by proper proceedings.

(11) The Borrower shall preserve and maintain all of the Borrower's rights, privileges, and franchises necessary or desirable in the normal conduct of the Borrower's business, and not to suspend business operations.

(12) The Borrower will obtain all necessary state, federal, local, and private clearances, authorizations, permits, and licenses with respect to the business operations of the Borrower, including, without limitation, any export and other trade licenses or permits required by law for the present or future business operations of the Borrower.

Section 5.9. Reports; Financial Statements. The Borrower covenants that it will keep or cause to be kept proper books of records and accounts in which full, true, and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the Borrower.

Section 5.10. Maintenance of Series 2019 Project. The Borrower shall maintain the Series 2019 Project in good and workable condition at all times and make all repairs, replacements, additions, and improvements to the Series 2019 Project reasonably necessary and proper to ensure that the business carried on in connection with the Series 2019 Project shall be conducted properly and efficiently at all times including, without limitation, repairing, restoring, replacing, or rebuilding any part of the Series 2019 Project which may be damaged or destroyed by any casualty whatsoever or which may be affected by any eminent domain or similar proceeding. The Borrower shall not in any manner commit or suffer any waste of the Series 2019 Project.

Section 5.11. Right to Inspect. The Lender and its agents and consultants shall have the right to enter the Series 2019 Project from time to time to examine the Borrower's books of record and accounts in regard to the Loan, to take copies and extracts from such books of record and accounts, and to discuss the affairs, finances, and accounts of the Borrower with the Borrower's respective officers, accountants and auditors.

Section 5.12. Insurance. The Borrower will keep the Series 2019 Project insured at all times for the benefit of the Issuer and the Lender pursuant to the requirements of Lender in this Loan Agreement and other Loan Documents and the net proceeds of any such insurance shall be utilized in compliance with the requirements of the Lender under said documents.

Section 5.13. Condemnation Award. In the event of a taking of the Mortgaged Property through an exercise of eminent domain, the Borrower shall promptly notify the Issuer and the Lender. Any condemnation award or other proceeds received by the Borrower in connection with the taking shall be applied in accordance with the requirements of the Lender under the Loan Documents.

Section 5.14. Borrower's Business. The Borrower will conduct the same general type of business as is proposed to be conducted by the operation of the Series 2019 Project as set forth in the definition of "Series 2019 Project" and not dispose of all or substantially all of its assets or consolidate with or merge into another corporation or entity or permit any other corporation or entity to consolidate with or merge into it. No disposition of assets, consolidation or merger shall be undertaken by the Borrower if the effect thereof would be to cause the interest payable on the Series 2019C Note to become subject to income taxation. Every surviving, resulting, or transferee corporation or entity shall be bound by all of the covenants and agreements of the Borrower herein. Consent as to any one transaction by the Lender shall not be deemed a waiver of the right to require consent to future or successive transactions.

Section 5.15. Financial Information and Reporting. Except as otherwise stated in this Loan Agreement, all financial information provided to the Lender shall be compiled using generally accepted accounting principles consistently applied. During the term of this Loan Agreement, and afterward until all amounts due under this Loan Agreement are paid in full, unless the Lender shall otherwise agree in writing, the Borrower agrees to, and cause the Guarantor to agree to:

(1) Within one hundred twenty (120) days after the close of each Fiscal Year of the Borrower and the Guarantor, commencing the Fiscal Year ending September 30, 2019, provide the Lender with the annual audited Financial Statements of the Borrower and the Guarantor (consolidated with affiliates) for the preceding Fiscal Year, prepared by an Independent certified public accountant of recognized standing acceptable to the Lender and in accordance with generally accepted accounting principles, consistently applied, covering the operations of the Borrower and the Guarantor for such Fiscal Year.

(2) Within thirty (30) days after the end of each fiscal quarter of the Borrower and the Guarantor, commencing the fiscal quarter ending September 30, 2019, provide the Lender with the quarterly internally prepared interim Financial Statements of the Borrower and the Guarantor for the current fiscal quarter, in form and detail acceptable to the Lender and certified as correct by an officer of the Borrower acceptable to the Lender, which interim Financial Statements will be accompanied by a compliance certificate executed by an officer of the Borrower in the form attached hereto as EXHIBIT A.

(3) Provide the Lender an annual budget for the Series 2019 Project in form and detail acceptable to the Lender before the beginning of each Fiscal Year.

(4) Provide the Lender with such other information and further matters respecting the financial condition and results of operations of the Borrower, the Guarantor, the Series 2019 Project or the Mortgaged Property as the Lender may reasonably request, and permit the Lender or its agent(s) to visit and inspect the Borrower's and Guarantor's properties and examine their books and records.

Section 5.16. Parity Debt. The Borrower may incur additional indebtedness on a parity with the Series 2019 Notes, the Series 2014 Notes and the 2019 Taxable Note and secured by a parity lien on the Mortgaged Property (the "Parity Debt") for purposes of (a) additional improvements to the Mortgaged Property; (b) construction of additional facilities on the Mortgaged Property; or (c) refunding of outstanding indebtedness, provided that the ratio of Long Term Debt to the then current appraised value of the Mortgaged Property or the anticipated increased appraised value of the Mortgaged Property based on any additional improvements to be financed does not exceed eighty percent (80%) and the Borrower shall furnish the Lender:

(1) Either:

(a) a written report or opinion of an Independent certified public accountant stating that the Net Revenues Available for Debt Service of the Borrower for each of the last two audited Fiscal Years preceding the date on which the proposed additional parity indebtedness is to be incurred were at least one hundred twenty percent (120%) of the maximum Total Principal and Interest Requirements on all Long Term Debt (including such requirements for the proposed additional parity indebtedness but excluding such requirements for any then outstanding parity indebtedness to be refinanced by the proposed additional parity indebtedness) for any Fiscal Year beginning after the Fiscal Year in which the proposed additional parity indebtedness is to be incurred but before the final stated maturity of all then outstanding parity indebtedness; or

(b) a financial forecast prepared by an Independent certified public accountant stating that the estimated Net Revenues Available for Debt Service of the Borrower for each of

the three consecutive Fiscal Years beginning after the Fiscal Year in which any improvements being financed by such proposed additional parity indebtedness are to be placed in service or after funded interest relating to such proposed additional parity indebtedness has been expended, or, if no improvements are to be financed thereby, after the Fiscal Year in which the proposed additional parity indebtedness is to be incurred, will be not less than one hundred twenty-five percent (125%) of the maximum Total Principal and Interest Requirements on all parity indebtedness (including such requirements for the proposed additional parity indebtedness but excluding such requirements for any then outstanding parity indebtedness to be refinanced by the proposed additional parity indebtedness) for any Fiscal Year beginning after the Fiscal Year in which any improvements being financed by such proposed additional parity indebtedness are to be placed in service or after funded interest relating to such proposed additional parity indebtedness has been expended, or, if no improvements are to be financed thereby, after the Fiscal Year in which the proposed additional parity indebtedness is to be incurred, but before the final stated maturity of all then outstanding parity indebtedness; and

(2) a current appraisal of the Mortgaged Property prepared by an Independent appraiser acceptable to the Lender and in compliance with all state and federal appraisal requirements applicable to the Lender and the Lender's internal underwriting requirements.

The Borrower shall provide to the Lender the first opportunity to negotiate the terms of, and provide, such additional indebtedness, whether on a parity with or subordinate to the Series 2019 Notes. The Borrower shall have satisfied this requirement if it notifies the Lender in writing at least thirty (30) days prior to contacting any other lender for such financing.

Section 5.17. Parity of Series 2019 Notes, Series 2014 Notes and 2019 Taxable Note. The Series 2014A Note, the Series 2014B Note, the Series 2019A Note, the Series 2019B, the Series 2019C Note, and the 2019 Taxable Note are issued on a parity and shall share equally and ratably in any payments made by the Borrower from revenues of the Mortgaged Property and any proceeds derived from the Mortgage. The Mortgage secures the indebtedness evidenced by the Series 2014 Notes, the Series 2019 Notes, and the 2019 Taxable Note on a parity and share the first mortgage lien position on the Mortgaged Property. The Guaranty Agreement and the Security Agreement provide security solely for the Series 2019 Project.

Section 5.18. Intercreditor Agreement. In connection with the Borrower incurring Parity Debt, the Borrower, the Lender, and the third-party lender providing the additional indebtedness shall enter into an Intercreditor Agreement, the terms of which must be satisfactory to the Borrower, Lender, and the third-party lender.

Section 5.19. Debt Service Coverage Ratio. The Borrower must achieve a Debt Service Coverage Ratio for each Fiscal Year of not less than 1.20 to 1.00, commencing the Fiscal Year ending September 30, 2022.

Section 5.20. Audit Expenses. The Borrower agrees to pay any reasonable costs incurred by the Issuer or the Lender as a result of the Issuer's or the Lender's compliance with an audit, random or otherwise, by the Internal Revenue Service or the Minnesota Department of Revenue with respect to the Series 2019C Note or the Series 2019 Project.

Section 5.21. Repair and Replacement Reserve Fund. The Borrower shall establish and maintain with the Lender an interest bearing account the funds of which shall be used to make repairs and replacements to the Series 2019 Project. The Borrower shall make monthly deposits of \$4,500 beginning October 1, 2019 and on the first day of each month thereafter, and upon the issuance of a certificate of

occupancy by the City of Bloomington pursuant to the requirements of the Disbursing Agreement, said monthly deposits shall increase to \$9,125 beginning on the first day of the month following such issuance and continuing on the first day of each month thereafter until the Repair and Replacement Reserve Fund has a balance of \$250,000 as determined no more frequently than each January 1 and July 1 (each a “Test Date”). Amounts may be withdrawn from the Repair and Replacement Reserve Fund by the Borrower after the Repair and Replacement Reserve Fund has a balance of \$250,000 to pay for repairs and replacements to the Series 2019 Project so long as such amounts are restored to the Reserve Account as of the next Test Date.

Section 5.22. Days’ Cash on Hand. The Borrower shall maintain at least sixty (60) Days’ Cash on Hand measured every six (6) months, commencing on September 30, 2022.

Section 5.23. Minimum Demand Deposit Account. The Borrower shall establish on the date of Closing and maintain with the Lender during the term of the Loan Documents a demand deposit account with a minimum sum of not less than \$2,000,000.

Section 5.24. Errors and Omissions Compliance. If requested by the Lender or someone acting on behalf of the Lender, the Borrower shall fully cooperate and adjust for errors and omissions, any and all Loan Documents and closing documentation deemed necessary or desirable in the reasonable discretion of the Lender to perfect its interest in such documentation, or to sell, convey or market its interest to any entity. The Borrower does hereby so agree and covenant in order to assure that the Loan Documents and closing documentation executed as of the Date of Issuance shall conform and be acceptable for the perfection of and in the marketplace in the instance of transfer, sale or conveyance by the Lender of its interest in and to said documentation.

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ARTICLE VI

PREPAYMENT OF LOAN

Section 6.1. Prepayment at Option of the Borrower. The principal balance of the Loan and the principal balance of the Series 2019C Note is subject to optional redemption and prepayment, in whole or in part, on any Payment Date, upon thirty (30) days written notice from the Borrower to the Holder, at a redemption price equal to the sum of the principal amount of the Series 2019C Note to be redeemed, accrued and unpaid interest on the Series 2019C Note to the date of such prepayment, and the Prepayment Premium.

Notwithstanding the foregoing, in any calendar year, the Borrower may prepay up to fifteen percent (15%) of the outstanding principal amount of the Series 2019C Note without Prepayment Premium.

In the event the Borrower elects to prepay the Loan, the Borrower shall cause to be given in the name of the Issuer due notice of redemption or prepayment of the Series 2019C Note as required by the Series 2019C Note, and shall pay the amount payable in connection with any such prepayment (as calculated above in this Section 6.1 and in the Series 2019C Note) when due to the Lender. The Issuer hereby authorizes the Borrower to give mailed notice of prepayment and, if required by law, published notice of prepayment of the Series 2019C Note in the name of the Issuer, from time to time.

Section 6.2. Mandatory Redemption.

(1) At the option of the Lender, upon a Determination of Taxability: (a) the Series 2019C Note is subject to mandatory redemption on the first day of the then next succeeding month in an amount equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date plus any applicable Prepayment Premium; or (b) the interest rate on the Series 2019C Note shall be adjusted to a taxable rate in accordance with the provisions of the Series 2019C Note.

(2) The Series 2019C Note is subject to mandatory redemption in whole, on any date upon thirty (30) days written notice from the Lender to the Borrower, from insurance proceeds in accordance with the provisions of the Mortgage or from the proceeds of a condemnation award in accordance with the provisions of the Mortgage.

(3) The Series 2019C Note is subject to mandatory redemption and prepayment at the election of the Lender following an Event of Default.

No Prepayment Premium (except for any prepayment or termination fee payable pursuant to any applicable Hedge Agreement) shall be payable in connection with a mandatory redemption pursuant to Sections 6.2(2) hereof. A Prepayment Premium is payable with respect to any mandatory redemption pursuant to Section 6.2(1) or (3) hereof.

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ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default. Any one or more of the following events is an Event of Default under this Loan Agreement:

(1) If the Borrower shall fail to make (a) any payments required under Section 3.4 hereof on the date due, and such default continues for five (5) Business Days, or (b) any other payment due under this Loan Agreement on or before the date that the payment is due and such default continues for ten (10) days after written notice is given to the Borrower by the Issuer or the Lender, or (c) any other payment due under any other indebtedness owed to the Lender on or before the date that the payment is due and such default continues for ten (10) days after written notice is given to the Borrower by the Lender.

(2) If the Borrower shall fail to observe and perform any other covenant, condition, or agreement on its part under this Loan Agreement or under any Loan Document, except as provided in Section 5.4, for a period of thirty (30) days after written notice, specifying such default and requesting that it be remedied, given to the Borrower by the Issuer or the Lender, unless the Lender shall agree in writing to an extension of such time prior to its expiration, or for such longer period as may be reasonably necessary to remedy such default provided that the Borrower is proceeding with reasonable diligence to remedy the same.

(3) If any "Event of Default" occurs and is continuing under the Mortgage, the Guaranty Agreement or any of the other Loan Documents.

(4) If any event of default occurs and is continuing under the 2014 Loan Agreement.

(5) If the Borrower or Guarantor shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, shall consent to the entry of an order for relief pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall make an assignment for the benefit of their creditors or shall admit in writing their inability to pay their debts generally as they become due, or if a petition or answer proposing the entry of an order for relief of the Borrower or Guarantor under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be filed in any court and such petition or answer shall not be discharged or denied within thirty (30) days after the filing thereof, or a receiver, trustee, or liquidator of the Borrower or Guarantor of all or substantially all of the assets of the Borrower or Guarantor, or of the Mortgaged Property, shall be appointed in any proceeding brought against the Borrower or Guarantor and shall not be discharged within thirty (30) days after such appointment or if the Borrower or Guarantor shall consent to or acquiesce in such appointment, or if the estate or interest of the Borrower in the Mortgaged Property or a part thereof shall be levied upon or attached in any proceeding and such process shall not be vacated or discharged within thirty (30) days after such levy or attachment; or if the Borrower or Guarantor shall be dissolved or liquidated or shall be merged with or is acquired by another business entity in violation of Section 5.2 hereof.

(6) If any representation or warranty made by the Borrower herein, or by an officer or representative of the Borrower in any document or certificate furnished the Lender or the Issuer in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be, in any material respect, incorrect or misleading as of the date made.

(7) All or any portion of the Mortgaged Property, or the legal, equitable, or any other interest therein, shall be sold, transferred, assigned, leased, further encumbered, or otherwise disposed of, unless the prior written consent of the Lender is first obtained; provided that nothing in this Loan Agreement prohibits the Borrower from entering into an agreement for sale of the Mortgaged Property where the Loan and all other amounts due under this Loan Agreement and the other Loan Documents shall be paid in full at the closing of the sale.

(8) The Series 2019 Project is materially damaged or destroyed by fire or other casualty and the loss is not adequately covered by additional equity of the Borrower or insurance proceeds actually collected or in the process of collection.

(9) Any mechanic's or materialmen's lien is filed against the Mortgaged Property or any lien, of any nature, is filed against the Mortgaged Property and is not released, satisfied, or discharged of record or bonded to the Lender's sole satisfaction within thirty (30) days after its issuance or filing.

(10) If any "Event of Default" occurs and is continuing under the terms of the Taxable Loan Agreement or any agreement or document issued in connection therewith, or the Borrower or Guarantor shall default under any other loan or other evidence of indebtedness with Lender.

(11) A default under any bond, debenture, note, or other evidence of indebtedness of the Borrower, including any amounts under any indenture or other instrument under which any such evidence of indebtedness has been issued or by which it is governed and the expiration of the applicable period of grace, if any, specified in such evidence of indebtedness, indenture, or other instrument; provided, however, that if such default under such evidence of indebtedness, indenture, or other instrument shall be cured by the Borrower, or be waived by the holders of such indebtedness, in each case as may be permitted by such evidence of indebtedness, indenture, or other instrument, then the default hereunder by reason of such default shall be deemed likewise to have been thereupon cured or waived.

(12) Any judgment in excess of \$100,000, writ, warrant, attachment, garnishment, execution, or other similar processes is entered into or against the Borrower, the Guarantor or the Mortgaged Property, and is not released, satisfied, or discharged of record or bonded to the Lender's satisfaction within thirty (30) days of the filing, entering, or the levying thereof.

(13) A foreclosure proceeding is commenced against the Mortgaged Property.

(14) If any time prior to full completion of, and payment for, the Series 2019 Project, the amount of undisbursed Loan funds becomes in the Lender's sole opinion, insufficient for said purpose, and the Borrower does not deposit with the Lender funds in the amount of the insufficiency pursuant to the Disbursement Agreement within ten (10) days after the Lender makes a demand therefor.

(15) The Borrower abandons the Series 2019 Project or for any reason delays or ceases work upon which construction is commenced for a period of fifteen (15) consecutive days, or intentionally delays construction or causes construction to be delayed for any period of time for any reason so that the completion of the Series 2019 Project cannot, in the sole judgment of the Lender, be accomplished on or before November 22, 2020; provided, however, that any delays or cessation of work because of strikes, lockouts, embargoes, unavailability of labor or materials, wars, insurrections, rebellions, declaration of national emergencies, acts of God, or other causes beyond the Borrower's reasonable control shall not be considered an "Event of Default" under this Loan Agreement.

(16) This Loan Agreement, the Series 2019 Notes, or any of the Loan Documents prove to be unenforceable or invalid and such unenforceability or invalidity materially affects the prospect of

repayment of the Loan, and the Borrower fails to cooperate with the request of the Lender to correct such unenforceability or invalidity within five (5) days.

(17) The Guarantor shall revoke or dispute the validity of, or liability, under the Guaranty Agreement.

Section 7.2. Remedies. Whenever any Event of Default referred to in Section 7.1 hereof shall have happened and be subsisting, any one or more of the following remedial steps to the extent permitted by law may be taken by the Issuer, with the prior written consent of the Lender, or by the Lender itself:

(1) The Issuer shall, upon written direction of the Lender, or the Lender may, declare all installments of the Loan being an amount equal to that necessary to pay in full the Principal Balance plus accrued interest thereon of the Series 2019C Note at the Default Rate assuming acceleration of the Series 2019C Note under the terms thereof and to pay all other indebtedness thereunder to be immediately due and payable, whereupon the same shall become immediately due and payable by the Borrower.

(2) The Issuer shall, upon written direction of the Lender (except as otherwise provided in Section 8.9 hereof), or the Lender (in either case at no expense to the Issuer) may, take whatever action at law or in equity may appear necessary or appropriate to collect the amounts then due and thereafter to become due under this Loan Agreement and the other Loan Documents, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under this Loan Agreement and the other Loan Documents.

(3) Take possession of the Mortgaged Property and the Series 2019 Project and do anything in its sole judgment to fulfill the obligations of the Borrower hereunder, including either the right to avail itself of or procure performance of existing contracts, under the assignment to the Lender or otherwise, or enter into any contracts with the same contracting parties or others.

(4) Perform any or all of the Borrower's covenants and agreements under any of the Loan Documents to which it is a party, and to this end, the Borrower hereby agrees as follows:

(a) The Borrower hereby constitutes and appoints the Lender, and its employees, agents and representatives, its true and lawful attorney-in-fact, with full power of substitution, in the name of the Borrowers, to (i) complete or cause to be completed all or any part of the Series 2019 Project; use the Plans and Specifications; make such changes, additions and corrections to the Plans and Specifications as the Lender shall deem reasonably necessary or desirable to complete all or any part of the Series 2019 Project (within the original scope of the Series 2019 Project), collect and use any funds of the Borrower; use any funds in a commercially reasonable manner which may remain unadvanced under this Loan Agreement and the other Loan Documents; employ such contractors, subcontractors, architects, inspectors, agents and other persons and parties, and enter into such contracts and arrangements, as shall be required for such purposes; pay, settle or compromise all existing bills and claims which may be or become or give rise to liens against the Series 2019 Project, or the payment, settlement or compromise of which are reasonably necessary or desirable for the completion of the Series 2019 Project or clearance of the title to the Series 2019 Project; examine and execute all applications, certificates and documents which may be required in connection with the Series 2019 Project, in the name of the Borrower; prosecute and defend all actions or proceedings in connection with the construction work on, or any other matter relating to, the Series 2019 Project; and do any and every act which the Borrower might do in its own behalf; (ii) lease, and/or contract to lease the Series 2019 Project, or any part thereof, or any appurtenances thereto, and to collect and receive all monies therefrom, and to enforce the provisions of any such lease, or contract to lease; (iii) enforce, by

any means that the Lender then deems reasonably necessary or advisable, all of the terms, covenants and conditions of the Loan Documents and Construction Documents; (iv) perform each of the terms, covenants and conditions to be kept and performed by the Borrower under the Loan Documents and Construction Documents; (v) without limiting the foregoing, perform each of the terms, covenants and conditions to be kept or performed by the Borrower under this Loan Agreement; and (vi) do all things that the Lender then deems reasonably necessary or advisable, including, without limitation, the execution of instruments, in the name of the Borrower or as an attorney-in-fact for the Borrower, for the purpose of carrying out the powers enumerated in clauses (i) through (v) above.

(b) The powers herein granted to the Lender shall be deemed to be powers coupled with an interest and are irrevocable.

(5) Setoff any sum due to or incurred by the Lender against all deposits and credits of the Borrower with, and any and all claims of the Borrower against, the Lender. Such right shall exist whether or not the Lender shall have made any demand hereunder or under any other Loan Document, whether or not said sums, or any part thereof, or deposits and credits held for the account of the Borrower is or are matured or unmatured, and regardless of the existence or adequacy of any collateral, guaranty or any other security, right or remedy available to the Lender. The Lender agrees that, as promptly as is reasonably possible after the exercise of any such setoff right, it shall notify the Borrower of its exercise of such setoff right; provided, however, that the failure of the Lender to provide such notice shall not affect the validity of the exercise of such setoff rights. Nothing in this Loan Agreement shall be deemed a waiver or prohibition of or restriction on the Lender to all rights of banker's lien, setoff and counterclaim available pursuant to law.

(6) Exercise any or all remedies specified herein and in the other Loan Documents, including (without limiting the generality of the foregoing) the right to foreclose the Mortgage and proceed against the collateral in any of the other Loan Documents, and/or exercise any other remedies which it may have therefor at law, in equity or under statute.

(7) The Lender may without regard to any waste, adequacy of the security, or solvency of the Borrower, apply for the appointment of a receiver to liquidate or provide for the orderly liquidation of any and all collateral, to which appointment the Borrower hereby consents.

(8) The Lender may order an update of the existing appraisal of the Mortgaged Property or a new appraisal of the Mortgaged Property for the sole benefit of the Lender, but at the sole cost and expense of the Borrower. In such event, the Borrower shall fully cooperate with the Lender and the Lender's appraiser as may be necessary and shall allow the Lender and/or the Lender's appraiser complete access to the Mortgaged Property and the Series 2019 Project for the purpose of completing such appraisal.

Section 7.3. Disposition of Funds. Notwithstanding anything to the contrary contained in this Loan Agreement, any amounts collected pursuant to action taken under Section 7.2 hereof, except for any amounts collected solely for the benefit of the Issuer under any of the provisions set forth in Section 8.9 hereof, shall, after deducting all expenses incurred in collecting the same, be delivered to the Lender.

Section 7.4. Manner of Exercise. No remedy herein conferred upon or reserved to the Issuer or the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to

be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Lender to exercise any remedy reserved to either of them in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 7.5. Attorneys' Fees and Expenses. In the event the Borrower should default under any of the provisions of this Loan Agreement and the other Loan Documents and the Issuer or the Lender should employ attorneys or incur other expenses for the collection of amounts due hereunder or thereunder or the enforcement of performance of any obligation or agreement on the part of the Borrower, the Borrower will on demand pay to the Issuer or the Lender the reasonable fee of such attorneys and such other expenses so incurred.

Section 7.6. Effect of Waiver. In the event any covenant contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.7. No Marshalling of Assets. The Lender may proceed against any collateral securing the Loan and against parties liable therefor in such order as it may elect, and neither the Borrower nor any surety or guarantor for the Borrower nor any creditor of the Borrower shall be entitled to require the Lender to marshal assets. The benefit of any rule of law or equity to the contrary is hereby expressly waived.

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ARTICLE VIII

GENERAL

Section 8.1. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, and the Lender may, by written notice given by each to the others, designate any address or addresses to which notices, certificates, or other communications to them shall be sent when required as contemplated by this Loan Agreement. Until otherwise provided by the respective parties, all notices, certificates, and communications to each of them shall be addressed as follows:

To the Issuer:	City of Independence, Minnesota 1920 County Road 90 Independence, MN 55359 Attn: City Administrator
To the Borrower:	PHS Founders Ridge, Inc. c/o Presbyterian Homes and Services 2845 Hamline Avenue North Roseville, MN 55113 Attn: Chief Financial Officer
To the Lender:	Choice Financial Group 6210 Wayzata Boulevard Golden Valley, MN 55416 Attn: John Fritz, Senior Vice President

Section 8.2. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Borrower and their respective successors and assigns.

Section 8.3. Severability. In the event any provision of this Loan 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 8.4. Amendments, Changes, and Modifications. Except as otherwise provided in this Loan Agreement or in the Resolution, subsequent to the initial issuance of the Series 2019C Note and before the Series 2019C Note is satisfied and discharged in accordance with its respective terms, this Loan Agreement may not be effectively amended, changed, modified, altered, or terminated without the prior written consent of the Lender.

Section 8.5. Execution Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Limitation of Issuer's Liability. It is understood and agreed by the Borrower and the Lender that no covenant of the Issuer herein shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers. It is further understood and agreed by the Borrower and the Lender that the Issuer shall incur no pecuniary liability hereunder, and shall not be liable for any expenses related hereto, including administrative expenses and fees and disbursements of the Issuer's

attorney, Bond Counsel, and fiscal consultant retained in connection therewith, all of which expenses the Borrower agrees to pay.

Section 8.7. Issuer's Fees and Costs. If, notwithstanding the provisions of Section 8.6 hereof, the Issuer incurs any expense, or suffers any losses, claims, or damages, or incurs any liabilities in connection with the transaction contemplated by this Loan Agreement, unless due to the intentional misconduct of the Issuer, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any reasonable legal or other expenses incurred by the Issuer in relation thereto. The Borrower shall also reimburse the Issuer for all other costs and expenses including, without limitation, reasonable attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution, and delivery of this Loan Agreement, the Series 2019C Note, the Assignment of Loan Agreement, the Cooperative Agreement, and the documents and instruments related hereto or thereto; (ii) any amendments or modifications hereto or to the Series 2019C Note, the Assignment of Loan Agreement, the Cooperative Agreement, and any document, instrument, or agreement related hereto or thereto, and the discussion, negotiation, preparation, approval, execution, and delivery of any and all documents necessary or desirable to effect such amendments or modifications; and (iii) the enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or under the Series 2019C Note, the Assignment of Loan Agreement, the Cooperative Agreement, or any document, instrument, or agreement related hereto or thereto, including, without limitation, costs and expenses of collection upon the occurrence of an Event of Default, whether or not suit is filed with respect thereto.

Section 8.8. Release. The Borrower hereby acknowledges and agrees that the Issuer shall not be liable to the Borrower, and hereby releases and discharges the Issuer from any liability, for any and all losses, costs, expenses (including reasonable attorneys' fees), damages, judgments, claims, and causes of action paid, incurred, or sustained by the Borrower as a result of or relating to any action, or failure, or refusal to act on the part of the Lender with respect to this Loan Agreement or the documents and transactions related hereto or contemplated hereby, including, without limitation, the exercise by the Lender of any of its rights or remedies under Article VII of this Loan Agreement, the Series 2019C Note, the Assignment of Loan Agreement, the Mortgage, or any collateral security documents. The Borrower's release of the Issuer under the terms of the preceding sentence does not extend to the Lender following the assignment of the Issuer's rights to the Lender under the terms of the Assignment of Loan Agreement.

Section 8.9. Assignment by Issuer and Survivorship of Obligations. The Issuer may assign its rights under this Loan Agreement and any related documents to the Lender to secure payment of the principal of and interest and premium, if any, on the Series 2019C Note, conditioned upon the Lender's assumption of the Issuer's and Lender's obligations to the Borrower hereunder, but any such assignment shall not operate to limit or otherwise affect the provisions of Sections 3.6, 5.1, 7.5, 8.6, 8.7, 8.8, and 8.20 hereof to the extent that they run to the Issuer from the Borrower to which extent they shall survive any such assignment. The Issuer shall have the right to enforce any such retained rights without the approval of the Lender. The obligations of the Borrower running to the Issuer for the purpose of preserving the tax-exempt status of the Series 2019C Note or otherwise for the Issuer's benefit under the foregoing sections shall survive payment of the Series 2019C Note and interest thereon.

Section 8.10. Required Approvals. Consents and approvals required by this Loan Agreement to be obtained from the Borrower or the Issuer shall be in writing and shall not be unreasonably withheld or delayed.

Section 8.11. Termination Upon Retirement of Series 2019C Note. At any time when no Principal Balance on the Series 2019C Note remains outstanding, and arrangements satisfactory to the

Lender and the Issuer have been made for the discharge of all other accrued liabilities, if any, under this Loan Agreement, this Loan Agreement shall terminate.

Section 8.12. Lender's Attorneys' Fees and Costs. The Borrower agrees to pay upon demand all of the Lender's out-of-pocket expenses, including reasonable attorneys' fees, incurred in connection with this Loan Agreement, the Loan, the Series 2019C Note, and the other Loan Documents. The Lender may retain a third party to enforce or collect the Loan and to enforce this Loan Agreement and the other Loan Documents, and Borrower will pay the fees and expenses of such third party including, subject to any limits under applicable law, the Lender's attorneys' fees and legal expenses, whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. The Borrower also will pay any court costs, in addition to all other sums provided by law, after the occurrence of an Event of Default.

Section 8.13. Not Partners; No Third Party Beneficiaries. Nothing contained herein, the other Loan Documents or in any related document shall be deemed to render the Lender a partner of the Borrower for any purpose. This Loan Agreement has been executed for the sole benefit of the Issuer, the Borrower, and the Lender, and no third party is authorized to rely upon the Issuer's, the Borrower's, or the Lender's rights hereunder or to rely upon an assumption that either the Issuer, the Borrower, or the Lender has or will exercise its rights under this Loan Agreement, the other Loan Documents, or any document referred to herein.

Section 8.14. Maximum Interest Payable. None of the provisions of this Loan Agreement or the Series 2019C Note shall have the effect of, or be construed as, requiring or permitting the Borrower to pay interest in excess of the highest rate per annum allowed by the laws of the State. If, under any circumstances, the Lender shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall, ipso facto, be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest.

Section 8.15. Payment by Any Party. Any payment made in accordance with the terms of this Loan Agreement by any Person at any time liable for the payment of the whole or any part of the Loan or the Series 2019C Note, or by any subsequent owner of the Series 2019 Project, or by any other Person whose interest in the Series 2019 Project might be prejudiced in the event of a failure to make such payment, or by any stockholder, officer, or director of a corporation which at any time may be liable for such payment or may own or have such an interest in the Series 2019 Project, or by any partner, limited partner, or an affiliate of any partnership which at any time may be liable for such payment or may own or have such an interest in the Series 2019 Project shall be deemed, as between the Lender and all Persons who at any time may be liable as aforesaid or who may own the Series 2019 Project, to have been made on behalf of all such Persons.

Section 8.16. Fee for Services Rendered. The Lender further reserves the right to assess the Borrower (and the latter agrees to pay) a reasonable fee for services rendered in connection with the Loan or the Series 2019C Note including, but not limited to, the modification of any documents, matters undertaken by the Lender at the request of the Borrower, collection efforts regarding payments on the Loan, reasonable attorneys' fees, as well as record-keeping costs resulting therefrom, and attorneys' fees and court costs in connection with proceedings under the Mortgage or the other Loan Documents or in pursuit of any remedies under this Loan Agreement, the Mortgage, or the other Loan Documents. After notice to the Borrower, the fees for services rendered shall become immediately due and payable to the Lender. In default of said payment, such fee shall be added to the outstanding principal balance of the Loan and shall bear interest at the Default Rate.

Section 8.17. Lender's Expenses. If the Lender shall incur or expend any sums including but not limited to reasonable attorneys' fees or costs of Uniform Commercial Code searches in order to:

- (1) maintain the security interest under this Loan Agreement, the Mortgage, or the Security Agreement, or any of the other applicable Loan Documents or their priority;
- (2) protect or enforce any of its rights under this Loan Agreement, the Mortgage, or the other Loan Documents;
- (3) recover amounts due under this Loan Agreement, the Mortgage, or the other Loan Documents;
- (4) recover any amounts due under the Series 2019C Note; or
- (5) appear in connection with any action, suit, proceeding, hearing, motion, or application before any court or administrative body in which the Lender may be or become a party by reason of this Loan Agreement (through the appellate level), including but not limited to condemnation, bankruptcy, and administrative proceedings, as well as any of the foregoing where a proof of claim is by law required to be filed, then all such sums shall on notice and demand be paid by the Borrower, together with interest thereon at the highest interest rate for any series of the Series 2019C Note.

Section 8.18. Jurisdiction. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY SUBMITS TO PERSONAL JURISDICTION IN MINNESOTA FOR THE ENFORCEMENT OF THE BORROWER'S OBLIGATIONS UNDER THIS LOAN AGREEMENT, THE MORTGAGE, OR THE OTHER LOAN DOCUMENTS, AND WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAW OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN SUCH STATE FOR THE PURPOSES OF LITIGATION TO ENFORCE SUCH OBLIGATIONS.

Section 8.19. Waiver of Trial by Jury. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND OR NATURE, IN ANY COURT IN WHICH AN ACTION MAY BE COMMENCED, ARISING OUT OF OR IN CONNECTION WITH THIS LOAN AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY OTHER MATTERS RELATING THERETO.

Section 8.20. Audit Expenses. The Borrower shall reimburse the Issuer for all costs and expenses including, without limitation, attorneys' fees paid or incurred by the Issuer in connection with the Issuer's compliance with an audit, random or otherwise, by the Internal Revenue Service, the Minnesota Department of Revenue, the Minnesota Office of the State Auditor, or any other governmental agency with respect to the Series 2019C Note, the Borrower, or the Series 2019 Project.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names all as of the date and year first written above.

CITY OF INDEPENDENCE, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

Execution page of the Borrower to the Loan Agreement, dated as of the date and year first written above.

PHS FOUNDERS RIDGE, INC.

By: _____
Its: Chief Financial Officer

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

[on Borrower's letterhead]

To: Choice Financial Group
6210 Wayzata Boulevard
Golden Valley, MN 55416
Attn: John D. Fritz

Re: Compliance Certificate date _____
\$9,000,000 City of Independence, Minnesota Senior Housing Revenue Note (Founders Ridge Project), Series 2019C

Ladies and Gentlemen:

Reference is made to that certain Loan Agreement, dated September 6, 2019 (as amended, restated, supplemented, or otherwise modified from time to time, the "Loan Agreement"), between the City of Independence, Minnesota (the "Issuer") and PHS Founders Ridge, Inc. (the "Borrower") (the interest of the Issuer under which Loan Agreement has been pledged and assigned to Choice Financial Group (the "Lender") pursuant to an Assignment of Loan Agreement, dated September 6, 2019). Capitalized terms used in this Compliance Certificate have the meanings set forth in the Loan Agreement unless specifically defined herein.

Pursuant to Section 5.15 of the Loan Agreement, the undersigned officer of the Borrower hereby certifies that:

1. The financial information furnished to Lender pursuant to Section 5.15 of the Loan Agreement fairly presents in all material respects the financial condition of the Borrower and the Guarantor.
2. Such officer has reviewed the terms of the Loan Agreement and has made, or caused to be made under the supervision of such officer, a review in reasonable detail of the transactions and condition of Borrower and Guarantor during the accounting period covered by the financial statements delivered pursuant to Section 5.15 of the Loan Agreement.
3. Such review has not disclosed the existence on and as of the date hereof, and the undersigned does not have knowledge of the existence as of the date hereof, of any event or condition that constitutes an Event of Default.
4. The representations and warranties of Borrower set forth in the Loan Agreement and the documents related thereto are true and correct in all material respects on and as of the date hereof (except to the extent they relate to a specified date).
5. The Borrower is in compliance with the Debt Service Coverage Ratio covenant contained in Section 5.19 of the Loan Agreement as set forth on Schedule 1 hereof. **[REPORTED ONLY ON FISCAL QUARTER THAT ENDS SEPTEMBER 30]**

6. The Borrower is in compliance with the Days' Cash on Hand covenant contained in Section 5.22 of the Loan Agreement as set forth on Schedule 1 hereof. **[REPORTED ONLY ON FISCAL QUARTERS THAT END ON MARCH 31 AND SEPTEMBER 30]**

IN WITNESS WHEREOF, this Compliance Certificate is executed by the undersigned this _____ day of _____, 20____.

PHS FOUNDERS RIDGE, INC.

By: _____
Its: Chief Financial Officer

SCHEDULE 1

1. Debt Service Coverage Ratio. Borrower's Debt Service Coverage Ratio measured on a fiscal year-end basis for the twelve month period ending on September 30 is _____ to 1.0 which ☐ is, ☐ is not equal to or greater than the minimum required Debt Service Coverage Ratio for such period of at least 1.20 to 1.00. **[REPORTED ONLY AFTER FISCAL QUARTER THAT ENDS SEPTEMBER 30]**

2. Days' Cash on Hand. Borrower ☐ has or ☐ has not maintained at least sixty (60) Days' Cash on Hand during the prior six (6) month period. **[REPORTED ONLY AFTER FISCAL QUARTERS THAT END ON MARCH 31 AND SEPTEMBER 30]**

City of Independence

Consider Approval of the Quad City Agreement

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: August 20, 2019

Discussion:

- The City has been working on an amendment to the Tri-City Agreement (will now be called the Quad-City Agreement) in order to allow Loretto to connect to the City of Independence Force Main on County Road 19. The agreement has been revised and is now in a form to be considered for adoption by the City. There are several key points that should be noted:
 - The City has been working to understand the potential number of additional Independence units that could be connected to the system. The City has focused on lakeshore lots that have access to the sewer. Earlier this year the City determined that lakeshore lots that have the ability to connect to City sewer can be a minimum of 1 acre. Based on the conceptual subdivision of properties, (primarily along Independence Road) it was estimated that an additional 14-34 lots could be realized. The City also recognized that there are six properties on Windmill Dr. that are not connected City sewer. Staff has been working with Medina to increase the number of connections included in the Quad City Agreement. Medina has stated that they would allow an additional 26 connections on top of the 289 agreed to in the Tri-City Agreement for a total of 315 connections.
 - The City has been working to determine how the Metropolitan Council will handle I&I after the Loretto connection. Independence and Loretto will be metered by the Metropolitan Council before discharging into the force main sanitary sewer line that runs south along County Road 19 to the Medina lift station. Greenfield will not be metered by the Metropolitan Council. Independence will continue to receive meter readings from Greenfield and will be responsible for administering a proportionate share of any I&I surcharges. Similarly, Independence connects to Medina's gravity sanitary sewer line at Perkinsville Road. This connection point will not be metered by the Metropolitan Council and Independence will be subject to providing Medina with sewer flow readings and a proportionate share of any I&I surcharges.

- Many of the costs associated with maintenance and repairs to the shared system will now be reimbursed by the Metropolitan Council and can be seen in the cooperative agreements between the Metropolitan Council and the cities of Medina and Independence. There is a cap on the total amount that will be reimbursed and any costs exceeding the cap amount will be proportionately shared amongst the quad cities.
- The agreement has been modified to remove the reconstruction of the pipe under Sycamore Trail. The Metropolitan Council is including this replacement in their project.
- The Cities will continue to have a maximum daily flow that can be pumped into the system. Those daily flow numbers will reflect the increased number of units.

Recommendation:

The City Council is being asked to consider **RESOLUTION 19-0820-03** approving the Quad City Agreement.

ATTACHMENTS: **RESOLUTION 19-0820-03**
 Quad City Agreement



**CITY OF INDEPENDENCE
RESOLUTION NO. 19-0820-03**

A RESOLUTION APPROVING THE QUAD-CITY AGREEMENT

WHEREAS, Medina, Independence, and Greenfield (the “Tri-Cities”) entered into an agreement (the “Original Tri-City Agreement”) on the 9th day of April, 1985, for the purpose of outlining the conditions under which Independence had the right to install and connect sanitary sewer facilities to Medina’s sanitary sewer system, and the Tri-Cities agreed to maintenance and service procedures and cost sharing related thereto; and

WHEREAS, the Tri-City Agreement was amended by the First Amendment on the 5th day of April, 1994 and the Second Amendment on the 20th day of July, 2010 (as amended, the “Tri-City Agreement”); and

WHEREAS, the Tri-City Agreement permits Independence and Greenfield to make certain connections and discharge specified amounts of septate or sewage into Medina’s sanitary sewer facilities; and

WHEREAS, Loretto has requested to connect its sanitary sewer system to the existing sanitary sewer facilities described in the Tri-City Agreement; and

WHEREAS, the Tri-City Agreement contemplated the need for an amendment to accommodate Loretto’s connection; and

WHEREAS, reimbursement for some operation and maintenance costs of the shared sanitary sewer facilities will be made by the Metropolitan Council of Environmental Services (MCES); and

WHEREAS, in recognition of the foregoing, the Quad-Cities wish to enter into this new agreement (the “Quad City Agreement”) and terminate the Tri-City Agreement.

NOW, THEREFORE, in consideration for the understandings and promises set forth in the Quad-Cities Agreement attached hereto as **Exhibit A**, the City Council hereby approves the agreement and authorizes the Mayor and City Administrator to execute all necessary documents.

This resolution was adopted by the city council of the City of Independence on this 20th day of August 2019 by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

MEDINA/INDEPENDENCE/GREENFIELD/LORETTO
QUAD-CITY AGREEMENT

THIS QUAD-CITY AGREEMENT is made and entered into this _____ day of _____, 2019, by and among the City of Medina, ("Medina"), the City of Independence ("Independence"), the City of Greenfield ("Greenfield"), and the City of Loretto ("Loretto"), all Minnesota municipal corporations located in Hennepin County, Minnesota (collectively, the "Quad-Cities").

RECITALS

WHEREAS, Medina, Independence, and Greenfield (the "Tri-Cities") entered into an agreement (the "Original Tri-City Agreement") on the 9th day of April, 1985, for the purpose of outlining the conditions under which Independence had the right to install and connect sanitary sewer facilities to Medina's sanitary sewer system, and the Tri-Cities agreed to maintenance and service procedures and cost sharing related thereto; and

WHEREAS, the Tri-City Agreement was amended by the First Amendment on the 5th day of April, 1994 and the Second Amendment on the 20th day of July, 2010 (as amended, the "Tri-City Agreement"); and

WHEREAS, the Tri-City Agreement permits Independence and Greenfield to make certain connections and discharge specified amounts of septate or sewage into Medina's sanitary sewer facilities; and

WHEREAS, Loretto has requested to connect its sanitary sewer system to the existing sanitary sewer facilities described in the Tri-City Agreement; and

WHEREAS, the Tri-City Agreement contemplated the need for an amendment to accommodate Loretto's connection; and

WHEREAS, reimbursement for some operation and maintenance costs of the shared sanitary sewer facilities will be made by the Metropolitan Council of Environmental Services (MCES); and

WHEREAS, in recognition of the foregoing, the Quad-Cities wish to enter into this new agreement (the "Quad City Agreement") and terminate the Tri-City Agreement.

NOW, THEREFORE, in consideration for the understandings and promises set forth herein, it is mutually agreed by the Quad-Cities as follows:

AGREEMENT

SECTION I. DEFINITIONS. For the purpose of this Quad-City Agreement, the following words and phrases shall have the meanings ascribed to them.

Subd. 1 Outlet Connection No. 1 is at the Medina lift station (LS-3) on the north end of Baker Park, as shown on Exhibit A.

Subd. 2 Outlet Connection No. 2 is a point in the trunk line where Pipe E from Independence connects with Pipe D4, as shown on Exhibit A.

Subd. 3 Greenfield Connection is the point where the Greenfield sanitary sewer collection system connects with Pipe A, as shown on Exhibit A.

Subd. 3.1. Loretto Connection is the point where Pipe F connects the Loretto sanitary sewer system to Pipe C-2, as shown on Exhibit A.

Subd. 4 Pipe A is the force main sewer, Independence lift station (LS-55) and appurtenances from the south corporate limits of Greenfield along Lake Sarah Heights Drive, Sunset Lane and Town Line Road to the intersection of Town Line Road and County Road 11, as shown on Exhibit A. Pipe A does not include any individual services, individual pumps, individual septic tanks, any parallel lines which directly serve individual properties, or any portion of Greenfield's system.

Subd. 5 Pipe B is the force main sewer, lift stations, motors and appurtenances from South Lake Sarah Drive, Woodhill Drive, Independence Road and County Road 11 to the intersection of County Road 11 and Town Line Road, not including LS-5, as shown on Exhibit A.

Subd. 6 Pipe C-1 is the force main sewer commencing at the intersection of Town Line Road and County Road 11 and then east on County Road 11 to the Loretto Connection at County Road 19, as shown on Exhibit A. No individual services, individual pumps or individual septic tanks are connected to Pipe C-1.

Subd. 6.1. Pipe C-2 is the force main sewer commencing at the Loretto Connection at the intersection of County Road 11 and County Road 19, then south along County Road 19 to Outlet Connection No. 1, as shown on Exhibit A. No individual services, individual pumps or individual septic tanks are connected to Pipe C-2.

Subd. 7 Pipe D-1 includes the Medina lift station (LS-3) in Baker Park and the force main from the lift station extending past the Air Release Manhole to a cleanout manhole as shown on Exhibit A. Pipe D-1 consists of approximately 3700' of 8" High Density Poly Ethylene (HDPE) pipe, portions were installed in 1999 and 2001.

Subd. 8 Pipe D-2 is the force main extending from the cleanout manhole to Manhole 29 as shown on Exhibit A. Pipe D-2 consists of approximately 1270' of 8" Ductile Iron Pipe (DIP) and was installed in 1976.

Subd. 9 Pipe D-3 is the gravity line extending from Manhole 29 to Manhole 23 as shown on Exhibit A. Pipe D-3 consists of approximately 1930' of 8" Poly Vinal Chloride (PVC) pipe and was installed in 1976. Upon construction of Pipe D-4, the portion of Pipe D-3 north and east of Manhole 27 is proposed to be abandoned by the MCES.

Subd. 10 Pipe D-4 is the future gravity line extension that will extend from Manhole 29 to Outlet Connection No. 2 as shown on Exhibit A.

Subd. 11 Pipe D-5 is the gravity line extending from Outlet Connection No. 2 to Manhole 12 as shown on Exhibit A. Pipe D-5 consists of approximately 3984' of 10" PVC pipe and was installed in 1976.

Subd. 12 Pipe D-6 is the gravity line extending from Manhole 12 to the MCES Lift Station as shown on Exhibit A. Pipe D-6 consists of approximately 2657' of 15" concrete pipe and was installed in 1976.

Subd. 13 Pipe E is the force main sewer, lift stations and appurtenances commencing on South Lakeshore Drive to Perkinsville Road and then east along Perkinsville Road to Outlet Connection No. 2, as shown on Exhibit A.

Subd. 14 Pipe F is the force main sewer, lift station (LS-6) and appurtenances extending from Loretto's wastewater lagoons to Pipe C-2, as shown on Exhibit A. The connection from Pipe F to Pipe C-2 is at the southwest corner of the intersection of County Road 19 and County Road 11.

Subd. 15 Independence Beach Lateral System is the sewer line and appurtenances connecting the plat of Independence Beach, Hennepin County, and its environs, with the Medina lift station (LS-3).

Subd. 16 Maintenance and Operation Costs means all costs, including labor and materials, which are necessary to maintain and operate a designated sanitary sewer line, lift station and related improvements, as shown on Exhibit B.

Subd. 17 Independence Lateral System means the City of Independence sanitary sewer and septate collection system.

Subd. 18 Lift Station Storage Modules means devices designed and installed for the purpose of storing excess sewage or septate at lift stations.

Subd. 19. Quad-City System means, collectively, all facilities and elements of the sanitary sewer systems of the Quad Cities described or listed in this Quad-Cities Agreement.

Subd. 20. Unit means a factor applied to a particular connection to the sanitary sewer system based upon estimated expected sanitary sewer usage. Unit calculations are based upon MCES's Sewer Availability Charge (SAC) procedure manual where a single-family detached dwelling is equivalent to one unit.

SECTION II. GRANT OF ACCESS/MAXIMUM ALLOWABLE DISCHARGE AND CONNECTIONS.

Subd. 1. Medina grants to Independence, Greenfield, and Loretto the authority to discharge septate and sewage into Medina's sanitary sewer facilities, subject to the conditions described herein.

Subd. 2. Independence grants to Greenfield and Loretto the authority to discharge septate and sewage into Independence's sanitary sewer facilities subject to the conditions described herein.

Subd. 3. The maximum allowable discharge from the Greenfield Connection is 80 gallons per minute (GPM) and 24,000 gallons per day from a maximum of 67 Units.

Subd. 4. The maximum allowable discharge from LS-5 into Pipe C shall not exceed 200 GPM and 103,000 gallons per day from a maximum of 274 Units (254 single-family Units plus Vinland National-20 Units) from Independence and 67 Units from Greenfield.

Subd. 5. The maximum allowable discharge from the Outlet Connection No. 2 is 80 GPM and 17,000 gallons per day from a maximum of 41 Units.

Subd. 6. The maximum allowable discharge from the Loretto Lift Station (LS-6) is 80 GPM and 111,000 gallons per day from a maximum of 385 Units (350 existing Units as of the date this agreement + maximum of 35 additional future Units).

Subd. 7. The location of Units in Greenfield and Independence which may connect to the Quad-City System shall only be in locations as depicted in Exhibit C, attached hereto, unless explicitly approved by Medina.

SECTION III. PAYMENT FOR THE COST OF CONSTRUCTION.

Subd. 1. Loretto shall pay one hundred percent (100%) of the cost to construct, reconstruct, maintain, repair and use Pipe F, the Loretto liftstation (LS-6), and associated equipment.

Subd. 2. Pipe D-4 shall be constructed to bypass Pipe D-3 prior to Loretto connecting to Pipe C-2. MCES has agreed to perform this project at no cost to the Quad-Cities and will own this pipe.

SECTION IV. MAINTENANCE AND OPERATION OF SEWER SYSTEMS.

Subd. 1. The MCES has agreed to reimburse Medina and Independence for the maintenance and operation of certain portions of the Quad-City system through separate agreements. These agreements are attached hereto as Exhibits D and E. Maintenance, operation, and replacement costs which are not reimbursed by the MCES shall be paid for in accordance with this Section IV.

Subd. 2. Independence shall maintain and repair Pipes A, B, C-1, C-2, and E, including lift stations LS-1, LS-2, LS-4, and LS-5 and associated equipment and appurtenances. Sharing of costs which are not reimbursed by the MCES shall be in accordance with the formula set forth in Exhibit B.

Subd. 3 Medina shall maintain and repair Pipes D-1, D-2, D-3, D-5 and D-6, including the Medina lift station (LS-3) and associated equipment and appurtenances. Sharing of costs which are not reimbursed by the MCES shall be in accordance with the formula set forth in Exhibit B.

Subd. 4 Loretto shall maintain and repair Pipe F, including the Loretto lift station (LS-6) and associated equipment and appurtenances.

Subd. 5. The services performed by each city on the sewer lines, lift stations and appurtenances under their respective jurisdictions and subject to this Agreement shall include periodic inspection, running time meter reading, maintenance and repair, including emergency repair where necessary to keep the system operating. Excessive infiltration shall be repaired as soon as is feasible. All services shall be performed by qualified personnel. The standards of performance for services performed under this section shall be established and administered by the city responsible for such services. Costs for salary, health insurance, worker's compensation, PERA, income tax withholding, and other expenses shall be borne by each city, respectively, for its employees.

Subd. 6. Medina is solely responsible for maintenance and replacement of the Independence Beach Lateral System.

Subd. 7. The Quad-Cities shall each be responsible for surcharges from the MCES related to excess inflow and infiltration (I/I) of their respective portions of the Quad-City System. If the MCES does not allocate the surcharges for Greenfield at the Greenfield Connection and for Independence at Outlet Connection No. 2, the Quad-Cities agree to allocate the surcharges based upon relevant meter readings. The Quad-Cities will proactively inspect and monitor their portion of sanitary sewer systems for I/I and promptly make improvements when excess I/I is identified.

SECTION V. METERING OF FLOW FROM PIPES A, B, C, and F; REPORTING

Subd. 1. Independence shall maintain flow meters at Outlet Connection #2. MCES has agreed to maintain a flow meter for Independence at LS-5. Greenfield shall provide flow measurement at Greenfield lift station #1 (LS-1). MCES has agreed to maintain a flow meter and provide flow measurement at Loretto lift station #6 (LS-6). Greenfield shall supply Independence these sewage flow records within five days after the end of each calendar quarter. Independence shall furnish to Medina sewage flow records from Outlet Connection #2 within 10 days after the end of each calendar quarter. Medina shall have access to flow records for the Quad-City System from the MCES.

Subd. 2. Medina, Independence, Loretto, and Greenfield shall pay to the MCES their respective shares of user fees based on the measured flows.

SECTION VI. ARBITRATION.

Any controversy or claim arising out of or related to this Quad-City Agreement or the breach thereof shall be settled between or among the members of the Quad-Cities in disagreement in the following matter:

Subd. 1. The disagreement shall first be submitted to the city administrators of the Quad-Cities in disagreement for settlement. Any settlement shall be binding on the parties upon approval of the settlement by the city councils of the Quad-Cities in disagreement.

Subd. 2. If any party determines that settlement cannot be reached pursuant to Subdivision 1, it may request arbitration by serving a request for arbitration on the other party or parties, by certified mail, together with a clear and concise statement of the claim or controversy and the name of one arbitrator.

Subd. 3. Within twenty (20) days after request for arbitration, the other party or parties shall each name an arbitrator and inform the requesting party. If only two arbitrators have been named, the arbitrators shall then select an additional arbitrator within 10 days of service of notice of selection of the second arbitrator. In the event of the failure to appoint any of the arbitrators, application can be made, without legal process, by any party for appointment thereof by the Chief Judge of the Hennepin County District Court. All arbitrators shall be knowledgeable in municipal affairs.

Subd. 4. Arbitration procedures and other matters not specifically set forth herein shall be governed by Chapter 572B of Minnesota Statutes, as amended. The fees and expenses of arbitration (excluding attorney fees, engineering fees and expert witness fees) shall be divided equally between or among the parties. An arbitration hearing shall be held at a location convenient to the parties within 20 days after appointment of the final arbitrator, and may be continued from time to time thereafter. The final decision of the arbitration panel shall be in writing, may be rendered by a majority of the arbitrators, shall be served by certified mail on all parties within 30 days of the submission of all evidence, and shall be final and binding on the parties hereto. Any party may make application for confirmation of the arbitration award and entry of judgment thereon in accordance with Chapter 572B of Minnesota statutes.

Subd. 5. Any Quad-City not party initially to a dispute may become party to the arbitration proceedings outlined herein if, at time prior to a final settlement, it determines that its interests are at stake and may be adversely affected by the arbitration.

SECTION VII. EFFECTIVE DATE AND TERMINATION.

Subd. 1. This Quad-City Agreement shall take effect upon approval by all of the parties' city councils. This Quad-City Agreement shall continue until canceled by mutual agreement of the parties or

until the sum of the combined flows exceeds the capacity of the system. If the combined flows exceed the system's capacity, Medina shall serve written notice giving Independence, Loretto, and Greenfield a minimum of two years to: (i) make other provisions for sanitary sewer service, or (ii) reduce the combined flow to match the system's capacity, or (iii) increase the system's capacity to accept the additional flow.

Subd. 2. If the combined flows exceed the system capacity, Loretto, Independence, and Greenfield each shall pay an amount in proportion to their respective flows for any improvement deemed necessary by Medina to increase said capacity.

Subd. 3. If the combined flows exceed the system capacity, Medina shall grant to Independence, Loretto, and Greenfield the right and authority to construct the facilities necessary for the chosen alternative outlined above within rights-of-way and easements within the corporate boundaries of Medina.

SECTION VIII. INSURANCE.

Subd. 1. Each party shall maintain commercial general liability insurance coverage for bodily injury and property damage in connection with the operation and maintenance of the portion of the Quad-City System for which each is responsible according to this Quad-City Agreement. No party to this Quad-City Agreement shall be liable to any other party for the other's negligent actions or failure to act. In the event that a damage claim is paid or becomes payable under any city's insurance policy, or in excess thereof, the question of contribution of any party shall be based upon relative fault and any disagreement regarding the amount of contribution is subject to the arbitration provisions hereof. Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amount in excess of the limits on liability established in Minnesota Statutes Ch. 466, applicable to any one party.

SECTION IX. FLOW INTERRUPTION.

During periods of emergency, Medina and Independence have the right to shut down upstream lift stations until the downstream emergency is resolved. The shut down shall be coordinated on a case by case basis by those cities' public works staff. Shut downs for routine maintenance may be for periods of up to 8 hours by giving one week notice to the upstream cities. Longer periods of shut down require a 30-day notice.

SECTION X.

This Quad-City Agreement supersedes and replaces the Tri-City Agreement.

IN WITNESS WHEREOF, the parties have authorized and executed this Quad-City Agreement on the dates noted on each of the following signature pages.

Date: _____, 2019.

CITY OF MEDINA

Kathleen Martin, Mayor

ATTEST:

Scott Johnson, City Administrator

Date: _____, 2019.

CITY OF INDEPENDENCE

Marvin D. Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

Date: _____, 2019.

CITY OF GREENFIELD

Brad Johnson, Mayor

ATTEST:

Margarat Webb, City Administrator

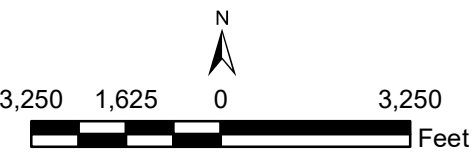
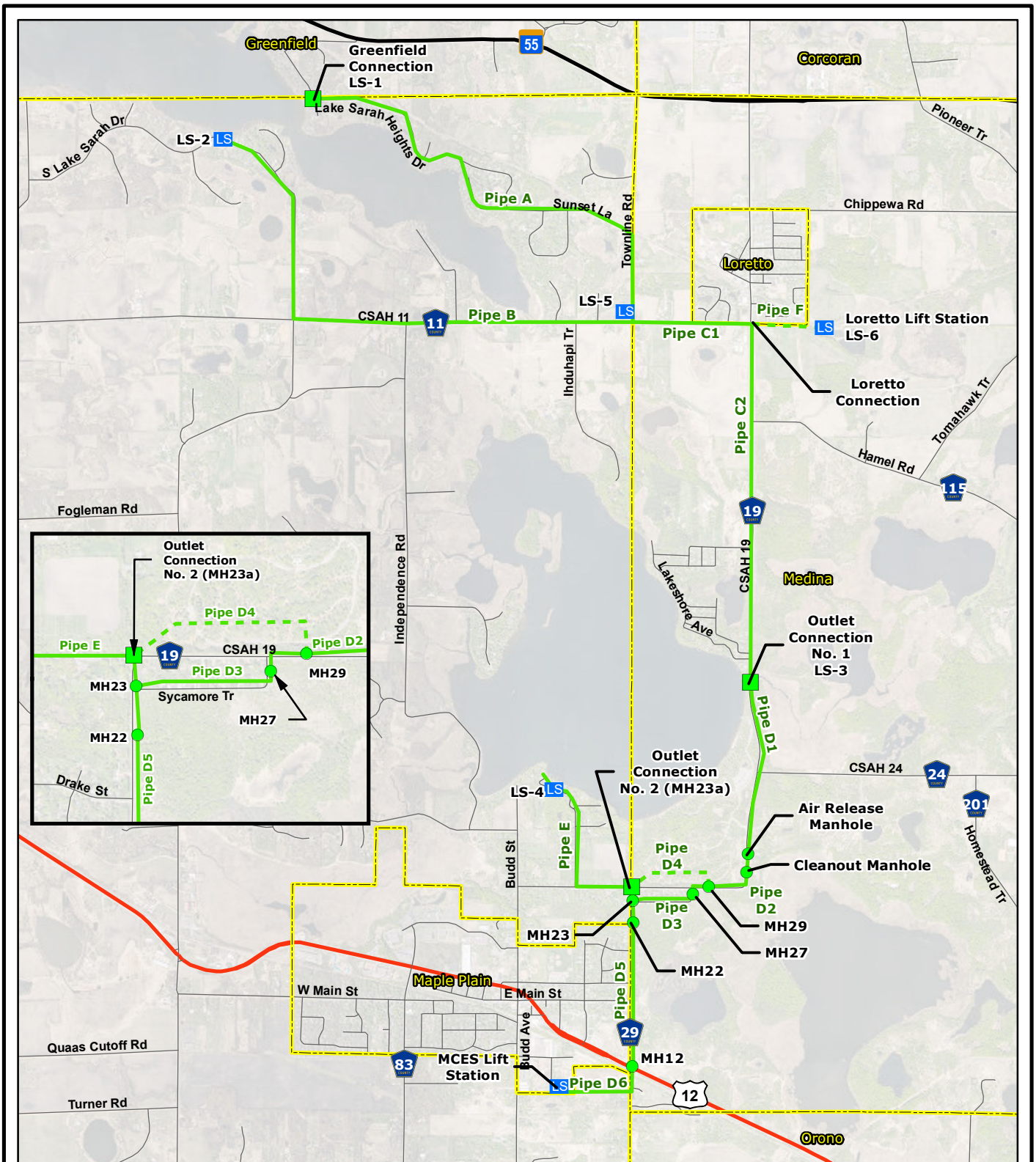
Date: _____, 2019.

CITY OF LORETTO

Kent Koch, Mayor

ATTEST:

Mary K. Schneider, City Clerk-Treasurer



Path: L:\0846\0846-0011\mxd\Sanitary Sewer.mxd
Date: 8/14/2019 Time: 3:12:13 PM User: BerKA1064

Legend

- | | |
|---|---|
| Municipal Boundaries | ● Manhole |
| --- Proposed Sanitary Sewer | Connection |
| — Existing Sanitary Sewer | Lift Station |

QUAD CITY AGREEMENT

Sanitary Sewer



WENCK

Responsive partner. Exceptional outcomes.

JUL 2019

Exhibit A

Exhibit B
Cost Sharing Formulas

Segment	Medina		Independence		Greenfield		Loretto	
	Units	%	Units	%	Units	%	Units	%
A	0	0.0%	104	60.8%	67	39.2%		0.0%
B	0	0.0%	144	100.0%	0	0.0%	0	0.0%
C-1	0	0.0%	274	80.4%	67	19.6%	0	0.0%
F	0	0.0%	0	0.0%	0	0.0%	385	100.0%
C-2	0	0.0%	274	37.7%	67	9.2%	385	53.0%
D-1	239	24.8%	274	28.4%	67	6.9%	385	39.9%
D-2	239	24.8%	274	28.4%	67	6.9%	385	39.9%
D-3	26	100.0%	0	0.0%	0	0.0%	0	0.0%
E	0	0.0%	41	100.0%	0	0.0%	0	0.0%
D-5	265	25.7%	315	30.5%	67	6.5%	385	37.3%
D-6	504	39.7%	315	24.8%	67	5.3%	385	30.3%

* Units indicated equal sum of eixsting and proposed.

COOPERATIVE AGREEMENT BETWEEN THE METROPOLITAN COUNCIL AND THE CITY OF MEDINA

THIS AGREEMENT is made and entered into by and between the **Metropolitan Council**, a public corporation and political subdivision of the State of Minnesota ("Council"), and the **City of Medina**, a municipal corporation under the laws of the State of Minnesota ("Medina").

BACKGROUND RECITALS

1. The Minnesota Pollution Control Agency has issued NPDES/SDS Permit No. MN0023990 to the City of Loretto for its wastewater treatment plant with the requirement to cease discharge and connect to the regional wastewater system by December 31, 2020.
2. Medina operates the trunk sanitary sewers and appurtenances under an agreement, known as the Tri-City Agreement, amongst the cities of Medina, Independence and Greenfield.
3. The Council has agreed to provide wastewater service to Loretto by December 31, 2020. The Council has included this service extension in the Wastewater System Plan chapter of its 2040 Water Resources Policy Plan.
4. The Council has future plans to expand its service area in the Western Metro Area, including the City of Loretto when sufficient growth occurs in the cities of Medina and Corcoran. Until then, the Council desires and Medina agrees to use Medina's existing wastewater system to provide sewer service to Loretto.
5. The Council has determined that service to Loretto can best be provided by Medina's system and facilities on behalf of the Council, pursuant to Minnesota Statutes § 473.504, subdivision 12.
6. In order to provide service to Loretto, a portion of the Medina sewer system needs to be upgraded as described in Article I(B). Medina and the Council agree that the Council will design and construct this upgrade between 2019 and 2020.

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

I. Council Responsibilities

- A. The Council shall reimburse Medina for all costs to operate, maintain, and conduct major repairs on the sanitary sewer system serving the communities of Medina, Independence, Greenfield, and Loretto (the "System") as described in Exhibit A and Exhibit B and as set forth in this Agreement.
- B. The Council shall construct a new 20" gravity pipe near Sycamore Trail, as shown in Exhibit A, prior to provision of sanitary sewer service to the City of Loretto. Such 20" gravity pipe shall be owned by the Council.
- C. The Council shall install and operate meters to measure sanitary sewer flows entering the System at Medina Lift Station LS-1 from the north from Independence/Greenfield and from Loretto and shall monitor and assign proportionate responsibility for inflow and infiltration into the System from each community.

- D. The Council acknowledges that any proposed future sewer extension which flows to the System shall be subject to review and approval under the agreement amongst the cities of Medina, Independence, Greenfield and Loretto prior to construction.

II. City Responsibilities

- A. Medina shall operate and maintain the sanitary sewers and appurtenances shown in Exhibit A to ensure reliable conveyance of wastewater. This responsibility includes routine operation and maintenance, as well as major repairs as defined in Article III(B).
- B. Medina shall locate any sanitary sewer facilities as required by the Gopher State One-Call system.
- C. Medina shall be responsible for the operation and maintenance of the new Council 20" gravity pipe near Sycamore Trail, as shown in Exhibit A. No connections may be added to this pipe without prior express written consent from the Council. Medina shall be responsible for any locates required by Gopher State One-Call for the 20" gravity pipe.
- D. Medina shall provide all labor, materials, supplies, tools, and equipment necessary for the performance of all work required to be performed by Medina by or under this Agreement.
- E. Medina agrees that any work performed by Medina or under Medina's supervision under this Agreement will be performed in a good and workmanlike manner and will be compliant with all applicable federal and state laws and regulations and all applicable local rules and ordinances.
- F. Medina shall provide the Council full access to Medina's lift stations or other locations as requested by the Council.
- G. Medina shall promptly notify the Council when any major repairs as described in Article III(B) of this Agreement are required to the System.

III. Costs

- A. Operation and Maintenance Costs
 - i. As further set forth below, the Council agrees to pay Medina an annual payment for operation and maintenance of the System. The operation and maintenance payment shall be \$25,090.00 per year plus inflationary increases based on the CPI increases from and after November 2017, as defined in Article III(A)(iii) and as shown in Exhibit B. The first annual payment shall be invoiced during January 2021, or during January of the calendar year after Loretto has connected to the System, whichever occurs first.
 - ii. On every January 1 for the Term of this Agreement, the Council's annual payments set forth in Article III(A)(i) will be adjusted to reflect changes in the Consumer Price Index (CPI) as set forth in Article III(A)(iii), but in no case shall the Council's annual payments increase less than 1.5% from the previous year.

- iii. The annual adjustment of the Council's payment will be set at an amount equal to the dollar value established for the year just concluded multiplied by a fraction, the denominator of which is the CPI for the November of the year prior to the immediately preceding Inflation Adjustment Date and numerator of which is the CPI for the November of the most recently concluded year. The foregoing notwithstanding, a dollar value shall not be reduced from year to year. For purposes of this Agreement, "CPI" shall mean the Consumer Price Index-U, U.S. City Average, All Items – less food and energy, Not Seasonally Adjusted, index base period (1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics. In the event such index is discontinued, comparable statistics in the purchasing power of the consumer dollar, as published at the time of said discontinuance by a responsible financial authority, shall be selected upon agreement between the Council and Medina and shall be used prospectively in lieu of such index.

B. Major Repairs

Major repairs include non-routine maintenance work to restore or ensure continued operations that have a cost for an individual occurrence that exceeds 10% of the annual routine operations and maintenance cost. The cost of major repairs will be reimbursed by the Council in addition to the costs identified in Article III(A).

IV. Method of Payment

A. Operation and Maintenance Costs

Medina shall submit to the Council, no later than January 31st of each year, an invoice for the annual operation and maintenance payment for the previous year. Each statement shall set forth the following information:

- 1. The Agreement number (18I005).
- 2. The amount of the annual operation and maintenance payment as adjusted using the CPI per Article III(A)(iii).

Upon receipt, the Council shall verify the CPI and pay Medina the invoiced amount within 45 days for annual operation and maintenance costs per Article III(A).

B. Major Repairs

Medina will submit an invoice for major repairs within a reasonable time of the work being completed. Medina's invoice shall itemize costs for labor (which may include reimbursement rates of Medina personnel), materials, and/or contracted services. Upon receipt, the Council shall pay Medina the invoiced amount within 45 days for major repairs per Article III(B).

- C. At the end of the Term of this Agreement or in the event this Agreement is terminated early, Medina shall submit to the Council a final invoice and a request for payment of the sums then owing. The final invoice must include the following certification, signed by an authorized representative of Medina:

The undersigned represents that payment of this request for payment to Medina constitutes completion of the work agreed upon pursuant to this Agreement and acknowledges that Medina shall be responsible to reimburse the Council for any

payments due to the Council as a result of an audit.

Except as provided in the next-following sentence, the Council shall pay the final invoice upon the Council's review, approval, and acknowledgment of satisfactory completion of the work, which shall not be unreasonably withheld.

- D. The Council is not obligated to pay Medina for any work that is inconsistent with the terms of this Agreement or is performed in violation of federal, state, or local law, ordinance, rule, or regulation.
- E. To the extent that it believes any costs are not covered by this Agreement or have not been adequately supported with appropriate supporting documentation, the Council reserves the right to contest such costs in accordance with the dispute resolution process outlined in Article IX(J) and such other remedies as provided for herein.

V. Maximum Total Compensation

Notwithstanding any other provision in this Agreement, the maximum total compensation by the Council paid to Medina under this Agreement shall not exceed \$1,054,671 as set forth in Exhibit B. Operation and maintenance expenses or major repair expenses may exceed the amounts described in Exhibit B provided the total compensation does not exceed \$1,054,671. In the event the maximum total compensation amount is projected to be exceeded before the Term of this Agreement has expired, Medina and the Council shall negotiate, in good faith, a written amendment to this Agreement.

VI. Insurance

The parties agree that the Council shall not be responsible or liable in any manner for any claim, demand, action or cause of action of any kind arising out of Medina's performance or failure to perform the work required and within the scope of this Agreement or arising out of Medina's performance or failure to perform such work by any contractor of Medina performing any of the work provided herein.

Medina shall maintain general liability insurance in an amount no less than the limits of Minnesota Statutes, Chapter 466. Such insurance shall list the Council as an additional insured, on a primary and non-contributory basis, utilizing ISO CG ISO CG 20 26 07 04 and ISO CG 20 37 07 04 or their equivalent. The policy shall not contain an exclusion for losses related to wastewater. In lieu of an insurance policy, Medina may self-insure, provided that the Council is afforded the equivalent protections as if an insurance policy was procured. The Council will determine whether Medina's proposed self-insurance constitutes equivalent protections to a policy of insurance.

VII. Term

- A. This Agreement shall begin upon its execution by both parties but shall be contingent upon execution of a separate agreement amongst the cities of Medina, Independence, Greenfield, and Loretto regarding the operation of the System. Medina may terminate this Agreement by written notice to the Council if such agreement amongst the cities is not executed prior to September 30, 2019.
- B. This Agreement shall terminate upon the Council providing wastewater services by constructing

Council-owned facilities or acquiring Medina-owned facilities. The parties anticipate that the Council will provide such services prior to December 31, 2040. The parties agree to negotiate, in good faith, a written amendment to this Agreement if it appears that the Council will not do so prior to such date. At least two years prior to termination of this Agreement, the Council will notify Medina of its intent to provide continued wastewater services.

VIII. Property Acquisition

When the Council notifies Medina of its intent to provide wastewater services in place of the System, and if the Council desires to acquire city-owned facilities in accordance with Minnesota Statutes § 473.511, Medina will cooperate in good faith to transfer ownership of the sanitary sewer systems, appurtenances, and all related easements, permits, and rights of way to the Council at no additional cost.

IX. General Provisions

- A. This Agreement shall not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- B. The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Ramsey, State of Minnesota.
- C. Medina agrees to keep and maintain, during the performance of this Agreement and a period of six (6) years following, records and files relating to the final financial aspects of this Agreement and further agrees to allow the Council or designated federal or state personnel to enter on Medina's premises after reasonable notice to inspect, copy and audit the above records, files, and premises. As required by Minnesota Statutes § 16C.05, the records, books, documents, and accounting procedures and practices of Medina and of any subcontractor relating to work performed under this Agreement shall be subject to audit and examination by the Council and the Minnesota Legislative Auditor or Minnesota State Auditor. Upon reasonable notice, Medina and any subcontractor shall permit the Council or its designee to inspect, copy, and audit its accounts, records, and business documents at any time during regular business hours as they may relate to the performance of this Agreement.
- D. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All exhibits referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
- E. Any amendment to this Agreement must be in writing and will not be effective until it has been executed by the parties' authorized representatives.
- F. The provisions of this Agreement are to be considered as severable, and in the event that any provision is held to be invalid or unenforceable, the parties intend that the remaining provisions will remain in full force and effect.
- G. The parties will comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data created, collected, received, stored, used, maintained, or

disseminated in accordance with this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this section by either party.

- H. The Council and Medina agree to comply with all applicable state and federal laws and regulations and all applicable local ordinances and rules. This includes but is not limited to laws and regulations relating to nondiscrimination, affirmative action, public purchases, contracting, employment, workers' compensation, surety deposits required for construction contracts, and prevailing wage rates.
- I. Medina shall comply with Minnesota Statutes § 471.425 on "Prompt Payment of Local Government Bills" and any other applicable law on prompt payment of local government bills.
- J. The parties will use this dispute resolution process for any unresolved contract dispute between the parties before seeking any legal or equitable remedies. The dispute resolution process is a two-level dispute resolution ladder that escalates a dispute from the project management level to the executive management level. At Level 1 of the dispute resolution process, the parties' representatives will meet and explore resolution until either party determines that effective resolution is not possible at the current level and notifies the other party that the process is elevated to the next level. The parties designate the following dispute resolution representatives:

	City of Medina Representative (Medina)	Metropolitan Council Representative (Council)
Level 1	Public Works Director	Assistant General Manager, Technical Services
Level 2	City Administrator	General Manager, Environmental Services

- K. If Medina materially breaches the terms, covenants, or conditions which this Agreement requires Medina to perform, the Council will notify Medina of the breach within a reasonable time after the Council becomes aware of the breach. Medina will then be given a reasonable time period to cure the breach. If the breach is not cured within 90 days, or as reasonably extended to account for weather conditions or unavoidable delays, then Medina and the Council will meet in good faith to discuss the breach and the measures taken to remedy it. If the dispute resolution between the Council and Medina does not result in a cure or a plan to effect a cure that is satisfactory to the Council, the Council may pursue any remedy that it deems appropriate, including, but not limited to, seeking damages, specific performance, equitable relief, or termination of this Agreement. If circumstances dictate that the breach must be cured immediately, and the Council is obliged to cure the breach, Medina will reimburse the Council for the reasonable costs of effecting the remedy. The Council retains the right to collect any damages from Medina that occurred as a result of Medina's breach.
- L. If the Council materially breaches the terms, covenants, or conditions which this Agreement requires the Council to perform, Medina will notify the Council of the breach within a reasonable time after Medina becomes aware of the breach. The Council will then be given a reasonable time period to cure the breach. If the breach is not cured within 90 days, or as reasonably extended to account for weather conditions or unavoidable delays, then the Council and Medina will meet in good faith to discuss the breach and the measures taken to remedy it. If the dispute resolution between Medina and the Council does not result in a cure or a plan to effect a cure that is satisfactory to Medina, Medina may

pursue any remedy that it deems appropriate, including, but not limited to, seeking damages, specific performance, equitable relief, or terminating this Agreement. If circumstances dictate that the breach must be cured immediately, and Medina is obliged to cure the breach, the Council will reimburse Medina for the reasonable costs of effecting the remedy. Medina retains the right to collect any damages from the Council that occurred as a result of the Council's breach.

M. Any notice or demand which must be given or made by a party under this Agreement shall be sent to:

Metropolitan Council:

Jeannine Clancy or her successor
Assistant General Manager, Technical Services
390 Robert Street North
St. Paul, MN 55101
jeannine.clancy@metc.state.mn.us

City of Medina:

Scott Johnson or his successor
City Administrator
2052 County Road 24
Medina, MN 55340
scott.johnson@medinamn.gov

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf respectively by their duly authorized representatives. This Agreement is effective on the date this Agreement is signed by the Council's authorized representative.

METROPOLITAN COUNCIL

By: _____

Its: Regional Administrator

Date: 01/17/2019

CITY OF MEDINA

By: _____

Its: Mayor

Date: 12/4/18

By: _____

Its: City Administrator

Date: 12/4/18

Exhibit A

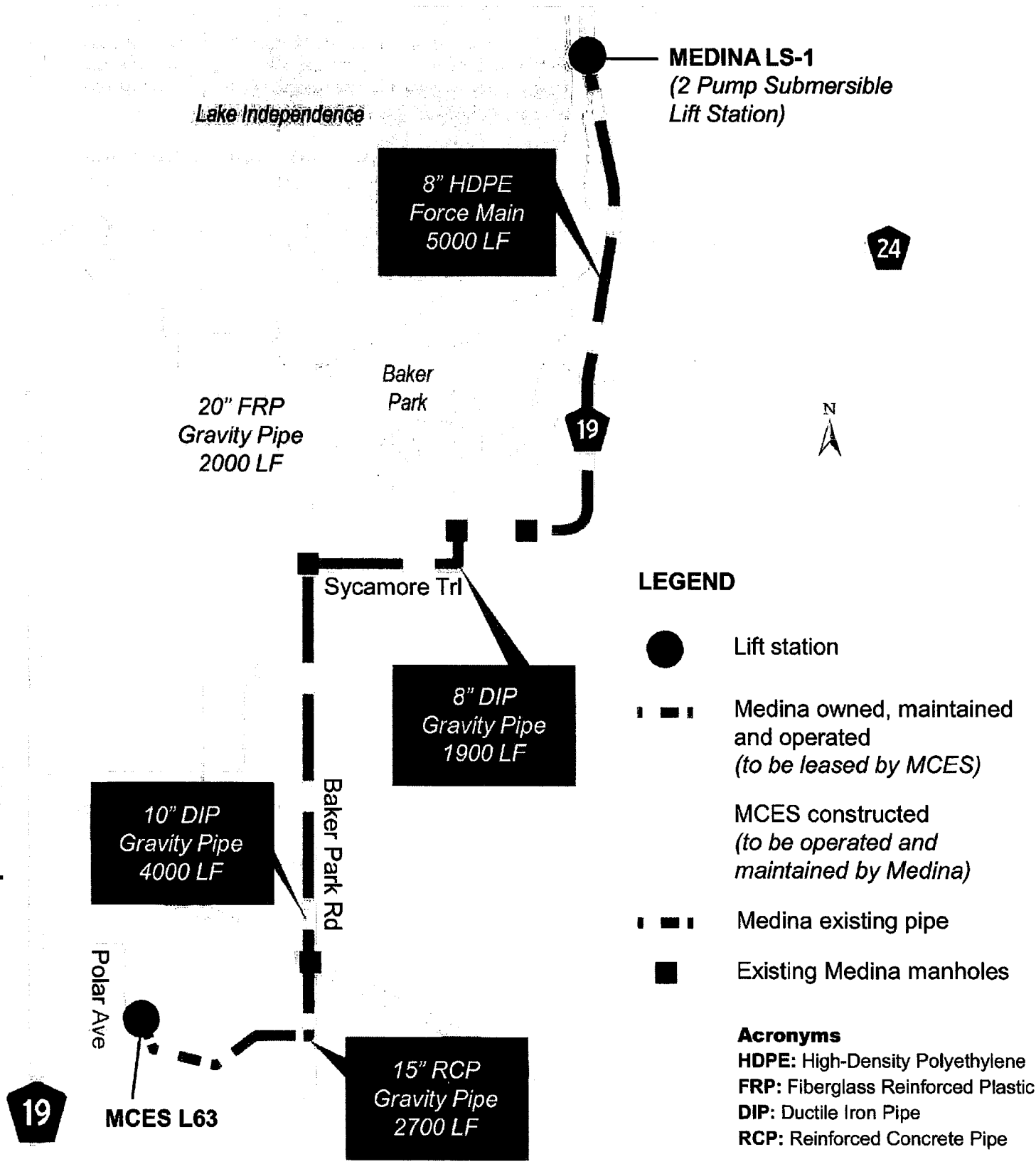


Exhibit B

Operations and Maintenance Costs

Items	Annual Cost
Xcel Power	\$3,420.00
Frontier Phone Line	\$663.00
W/H Security	\$396.00
Generator Maintenance	\$1988.00
Generator Load Test (performed every 2 years @\$435)	\$217.50
Annual Lift Station Inspection	\$250.00
Pipe Inspections (Monday, Wednesday, Friday – 3 hrs/week)	\$10,140.00
Pumps and Impellers	\$5,000.00
Sewer Line Cleaning/Televising (every 5 years @ \$10,000)	\$2,000.00
Additional Power Cost for Loretto Flow (30% more flow)*	\$1009.00
Total	\$25,084

Note: 30% additional flow was calculated using 261 gpm of existing flow at Medina Lift Station LS-1 and 77 gpm of Loretto flow.

Projected Annual Payments

		CPI*		
Annual 2017 costs (rounded)		3	\$25,090	
2018		3	\$25,842.70	
2019		3	\$26,617.98	
2020		3	\$27,416.52	
Start of Yearly Payment				Yearly Payment (Rounded)
2021	Year 1	3	\$28,239.02	\$28,239
2022	Year 2	3	\$29,086.19	\$29,086
2023	Year 3	3	\$29,958.77	\$29,959
2024	Year 4	3	\$30,857.54	\$30,858
2025	Year 5	3	\$31,783.26	\$31,783
2026	Year 6	3	\$32,736.76	\$32,737
2027	Year 7	3	\$33,718.86	\$33,719
2028	Year 8	3	\$34,730.43	\$34,730
2029	Year 9	3	\$35,772.34	\$35,772
2030	Year 10	3	\$36,845.51	\$36,846
2031	Year 11	3	\$37,950.88	\$37,951
2032	Year 12	3	\$39,089.40	\$39,089
2033	Year 13	3	\$40,262.08	\$40,262
2034	Year 14	3	\$41,469.95	\$41,470
2035	Year 15	3	\$42,714.05	\$42,714
2036	Year 16	3	\$43,995.47	\$43,995
2037	Year 17	3	\$45,315.33	\$45,315
2038	Year 18	3	\$46,674.79	\$46,675
2039	Year 19	3	\$48,075.03	\$48,075
2040	Year 20	3	\$49,517.29	\$49,517
Total				\$758,792

Note: 3% annual inflation rate assumed for purpose of establishing total agreement amount.

Maximum Agreement Costs

Total Annual Costs	\$758,792
Allowance (Annual major improvements)	\$200,000
Total Agreement Costs	\$958,792
10% Contingency	\$95,879
TOTAL	\$1,054,671

EXHIBIT E

Metropolitan Council No. 181006

COOPERATIVE AGREEMENT BETWEEN THE METROPOLITAN COUNCIL AND THE CITY OF INDEPENDENCE

THIS AGREEMENT is made and entered into by and between the **Metropolitan Council**, a public corporation and political subdivision of the State of Minnesota ("Council"), and the **City of Independence**, a municipal corporation under the laws of the State of Minnesota ("Independence").

BACKGROUND RECITALS

1. The Minnesota Pollution Control Agency has issued NPDES/SDS Permit No. MN0023990 to the City of Loretto for its wastewater treatment plant, with the requirement to cease discharge and connect to the regional wastewater system by December 31, 2020.
2. Independence operates trunk sanitary sewers and appurtenances under an agreement, known as the Tri-City Agreement, between Independence and the Cities of Medina and Greenfield.
3. The Council has agreed to provide wastewater service to Loretto by December 31, 2020. The Council has included this service extension in the Wastewater System Plan chapter of its 2040 Water Resources Policy Plan.
4. The Council also has future plans to expand its service area in the Western Metro Area, including the City of Loretto, when sufficient growth occurs in Medina and Corcoran. Until then, the Council desires and Independence agrees to use Independence's existing wastewater system, as shown in Exhibit A, to provide wastewater service to Loretto.
5. The Council has determined that wastewater service to Loretto can best be provided by Independence's system on behalf of the Council, pursuant to Minnesota Statutes § 473.504, subdivision 12.
6. The Council also desires to construct a wastewater flow meter to measure Independence's wastewater flow.
7. Improvements to Independence's wastewater pump station (PS-5) are required to accommodate Loretto's wastewater discharge to Independence's forcemain.

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

I. Council Responsibilities

- A. The Council shall reimburse Independence for all costs to operate, maintain, and conduct major repairs on the City's sanitary sewer system shown in Exhibit A.
- B. The Council shall acquire Independence's meter structure on the discharge from pump station PS-5, as shown in Exhibit A, in accordance with Minnesota Statutes § 473.511.
- C. The Council shall construct, operate, and maintain a wastewater flow meter to measure Independence's wastewater flow.

II. Independence Responsibilities

- A. Independence shall operate and maintain the sanitary sewers and appurtenances, as shown in Exhibit A, to ensure reliable conveyance of wastewater. This responsibility includes routine operation and maintenance, as well as major repairs, as defined in Article IV(B).
- B. Independence shall perform any sanitary sewer location services as required by the Gopher State One-Call system.
- C. Independence shall upgrade its pump station PS-5 as necessary to accommodate Loretto's wastewater discharge to the City's forcemain.
- D. Independence shall provide all labor, materials, supplies, tools, and equipment necessary for the performance of all work required to be performed by Independence by or under this Agreement.
- E. Independence agrees that any services performed by Independence or under Independence's supervision under this Agreement will be performed in a good and workmanlike manner and will be compliant with all applicable state laws and regulations and all applicable local rules and ordinances.
- F. Independence shall provide the Council full access to Independence's lift station or other locations as requested by the Council.
- G. Independence shall promptly notify the Council when any major repairs are required.
- H. Independence agrees to transfer title and ownership of its flow meter structure to the Council.
- I. Upon completion of the Council's wastewater flow meter, Independence agrees to participate in the Council's Inflow/Infiltration Mitigation Program.

III. Property Acquisition

- A. In accordance with Minnesota Statutes § 473.511, subdivision 4, the Council desires to acquire Independence's flow meter structure, piping, and appurtenances for measuring pump station PS-5 flow, as well as all applicable permits, licenses, or property rights.
- B. A Bill of Sale for the flow meter structure, as described in Exhibit B, shall be executed by Independence and the Council within 30 days following execution of this Agreement. Independence will assign to the Council all permits and licenses applicable to the flow meter structure.
- C. Independence holds a platted drainage and utility easement (C.R. Doc. No. 6193445), located at Beau Marsh, from a private property owner, as shown in Exhibit C. The Council desires to utilize the existing easement for construction, operation, and maintenance related to this Agreement. Independence acknowledges the easement exists and agrees to allow the Council permission to utilize the easement for these purposes until a time where the easement is no longer required to operate and maintain the flow meter structure and associated vault. This Agreement constitutes a permit for the Council to utilize the easement until such a time that the Council deems the use of the easement unnecessary. This permit may not be revoked or rescinded by Independence for any reason.

IV. Costs

A. Operation and Maintenance Costs

- i. As further set forth below, the Council agrees to pay Independence an annual payment for operation and maintenance of the System. The operation and maintenance payment shall be \$2,740 per year plus inflationary increases based on the CPI increases from and after November 2018, as defined in Article IV(A)(iii) and as shown in Exhibit D. The first annual payment shall be invoiced during January 2021, or during January of the calendar year after Loretto has connected to the System, whichever occurs first.
- ii. On every January 1 for the Term of this Agreement, the Council's annual payments set forth in Article IV(A)(i) will be adjusted to reflect changes in the Consumer Price Index (CPI) as set forth in Article IV(A)(iii), but in no case shall the Council's annual payments increase less than 1.5% from the previous year.
- iii. The annual adjustment of the Council's payment will be set at an amount equal to the dollar value established for the year just concluded multiplied by a fraction, the denominator of which is the CPI for the November of the year prior to the immediately preceding Inflation Adjustment Date and numerator of which is the CPI for the November of the most recently concluded year. The foregoing notwithstanding, a dollar value shall not be reduced from year to year. For purposes of this Agreement, "CPI" shall mean the Consumer Price Index-U, U.S. City Average, All Items – less food and energy, Not Seasonally Adjusted, index base period (1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics. In the event such index is discontinued, comparable statistics in the purchasing power of the consumer dollar, as published at the time of said discontinuance by a responsible financial authority, shall be selected upon agreement between the Council and Independence and shall be used prospectively in lieu of such index.

B. Major Repairs

Major repairs include non-routine maintenance work to the Independence forcemain from PS-5 to the junction structure, as shown in Exhibit A. Such repairs may be needed to restore or ensure continued operations to the wastewater system. Major repairs are repairs where the individual occurrence exceeds 50% of the annual routine operations and maintenance cost, as shown in Exhibit D. The cost of major repairs will be reimbursed by the Council in addition to the costs identified in Article IV(A).

C. Property Acquisition

The Council shall pay the City \$25,000 for the flow meter structure, piping, appurtenances, permits, and licenses, as described in Article III, within 30 days following execution of the Bill of Sale.

V. Method of Payment

A. Operation and Maintenance Costs

Independence shall submit to the Council, no later than January 31st of each year, an invoice for the

annual operation and maintenance payment for the previous year. Each statement shall set forth the following information:

1. The Agreement number (18I006).
2. The amount of the annual operation and maintenance payment as adjusted using the CPI per Article IV(A)(iii).

Upon receipt, the Council shall verify the CPI and pay Independence the invoiced amount within 45 days for annual operation and maintenance costs per Article IV(A).

B. Major Repairs

Independence will submit an invoice for major repairs within a reasonable time of the work being completed. Independence's invoice shall itemize costs for labor (which may include reimbursement rates of Independence personnel), materials, and/or contracted services. Upon receipt, the Council shall pay Independence the invoiced amount within 45 days for major repairs per Article IV(B).

- C.** At the end of the Term of this Agreement or in the event this Agreement is terminated early, Independence shall submit to the Council a final invoice and a request for payment of the sums then owing. The final invoice must include the following certification, signed by an authorized representative of Independence:

The undersigned represents that payment of this request for payment to Independence constitutes completion of the work agreed upon pursuant to this Agreement and acknowledges that Independence shall be responsible to reimburse the Council for any payments due to the Council as a result of an audit.

Except as provided in the next-following sentence, the Council shall pay the final invoice upon the Council's review, approval, and acknowledgment of satisfactory completion of the work, which shall not be unreasonably withheld.

- D.** The Council is not obligated to pay Independence for any work that is inconsistent with the terms of this Agreement or is performed in violation of federal, state, or local law, ordinance, rule, or regulation.
- E.** To the extent that it believes any costs are not covered by this Agreement or have not been adequately supported with appropriate supporting documentation, the Council reserves the right to contest such costs in accordance with the dispute resolution process outlined in Article IX(J) and such other remedies as provided for herein.

VI. Maximum Total Compensation

Notwithstanding any other provision in this Agreement, the maximum total compensation by the Council paid to Independence under this Agreement shall not exceed \$198,498 as set forth in Exhibit D. Operation and maintenance expenses or major repair expenses may exceed the amounts described in Exhibit D provided the total compensation does not exceed \$198,498. In the event the maximum total compensation amount is projected to be exceeded before the Term of this Agreement has expired, Independence and the Council shall negotiate, in good faith, a written amendment to this Agreement.

VII. Insurance

The parties agree that the Council shall not be responsible or liable in any manner for any claim, demand, action, or cause of action of any kind arising out of Independence's performance or failure to perform the work required and within the scope of this Agreement or arising out of Independence's performance or failure to perform such work by any contractor of Independence performing any of the work provided herein.

Independence shall maintain general liability insurance in an amount no less than the limits of Minnesota Statutes, Chapter 466. Such insurance shall list the Council as an additional insured, on a primary and non-contributory basis, utilizing ISO CG ISO CG 20 26 07 04 and ISO CG 20 37 07 04 or their equivalent. The policy shall not contain an exclusion for losses related to wastewater. In lieu of an insurance policy, Independence may self-insure, provided that the Council is afforded the equivalent protections as if an insurance policy was procured. The Council will determine whether Independence's proposed self-insurance constitutes equivalent protections to a policy of insurance.

VIII. Term

- A. This Agreement shall begin upon its execution by both parties but shall be contingent upon execution of a separate agreement amongst the cities of Medina, Independence, Greenfield, and Loretto regarding the operation of the System. Independence may terminate this Agreement by written notice to the Council if such agreement amongst the cities is not executed prior to September 30, 2019.
- B. This Agreement shall terminate upon the Council providing wastewater services by constructing Council-owned facilities or acquiring Independence-owned facilities. The parties anticipate that the Council will provide such services prior to December 31, 2040. The parties agree to negotiate, in good faith, a written amendment to this Agreement if it appears that the Council will not do so prior to such date. At least two years prior to termination of this Agreement, the Council will notify Independence of its intent to provide continued wastewater services.

IX. General Provisions

- A. This Agreement shall not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- B. The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Ramsey, State of Minnesota.
- C. Independence agrees to keep and maintain during the performance of this Agreement and a period of six (6) years following, records and files relating to the final financial aspects of this Agreement, and further agrees to allow the Council or designated federal or state personnel to enter on Independence's premises after reasonable advance notice and to inspect, copy and audit the above records, files, and premises. As required by Minnesota Statutes § 16C.05, the records, books, documents, and accounting procedures and practices of Independence and of any subcontractor relating to Services performed under this Agreement shall be subject to audit and examination by the

Council and the Minnesota Legislative Auditor or Minnesota State Auditor. Upon reasonable advance notice, Independence and any subcontractor shall permit Council or its designee to inspect, copy, and audit its accounts, records, and business documents at any time during regular business hours, as they may relate to the performance of this Agreement.

- D. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All exhibits referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
- E. Any amendment to this Agreement must be in writing and will not be effective until it has been executed by the Parties authorized representatives.
- F. The provisions of this Agreement are to be considered as severable, and in the event that any provision is held to be invalid or unenforceable, the Parties intend that the remaining provisions will remain in full force and effect.
- G. The Parties will comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data created, collected, received, stored, used, maintained, or disseminated in accordance with this Agreement. The civil remedies of Minnesota Statutes, § 13.08, apply to the release of the data referred to in this section by either Party.
- H. Council and Independence agree to comply with all applicable state and federal laws and regulations and all applicable local ordinances and rules. This includes but is not limited to laws and regulations relating to nondiscrimination, affirmative action, public purchases, contracting, employment, workers' compensation, surety deposits required for construction contracts, and prevailing wage rates.
- I. Independence shall comply with Minnesota Statutes § 471.425 on "Prompt Payment of Local Government Bills" and any other applicable law on prompt payment of local government bills.
- J. The parties will use this dispute resolution process for any unresolved contract dispute between the parties before seeking any legal or equitable remedies. The dispute resolution process is a two-level dispute resolution ladder that escalates a dispute from the project management level to the executive management level. At Level 1 of the dispute resolution process, the parties' representatives will meet and explore resolution until either party determines that effective resolution is not possible at the current level and notifies the other party that the process is elevated to the next level. The parties designate the following dispute resolution representatives:

	City of Independence Representative (Independence)	Metropolitan Council Representative (Council)
Level 1	Public Works Director	Assistant General Manager, Technical Services
Level 2	City Administrator	General Manager, Environmental Services

- K. If Independence materially breaches the terms, covenants, or conditions which this Agreement requires Independence to perform, the Council will notify Independence of the breach within a

reasonable time after the Council becomes aware of the breach. Independence will then be given a reasonable time period to cure the breach. If the breach is not cured within 90 days, or as reasonably extended to account for weather conditions or unavoidable delays, then Independence and the Council will meet in good faith to discuss the breach and the measures taken to remedy it. If the dispute resolution between the Council and Independence does not result in a cure or a plan to effect a cure that is satisfactory to the Council, the Council may pursue any remedy that it deems appropriate, including, but not limited to, seeking damages, specific performance, equitable relief, or termination of this Agreement. If circumstances dictate that the breach must be cured immediately, and the Council is obliged to cure the breach, Independence will reimburse the Council for the reasonable costs of effecting the remedy. The Council retains the right to collect any damages from Independence that occurred as a result of Independence's breach.

- L. If the Council materially breaches the terms, covenants, or conditions which this Agreement requires the Council to perform, Independence will notify the Council of the breach within a reasonable time after Independence becomes aware of the breach. The Council will then be given a reasonable time period to cure the breach. If the breach is not cured within 90 days, or as reasonably extended to account for weather conditions or unavoidable delays, then the Council and Independence will meet in good faith to discuss the breach and the measures taken to remedy it. If the dispute resolution between Independence and the Council does not result in a cure or a plan to effect a cure that is satisfactory to Independence, Independence may pursue any remedy that it deems appropriate, including, but not limited to, seeking damages, specific performance, equitable relief, or terminating this Agreement. If circumstances dictate that the breach must be cured immediately, and Independence is obliged to cure the breach, the Council will reimburse Independence for the reasonable costs of effecting the remedy. Independence retains the right to collect any damages from the Council that occurred as a result of the Council's breach.

- M. Any notice or demand which must be given or made by a party under this Agreement shall be sent to:

Metropolitan Council:

Jeannine Clancy or her successor
Assistant General Manager, Technical Services
390 Robert Street North
St. Paul, MN 55101
jeannine.clancy@metc.state.mn.us

City of Independence:

Mark Kaltsas or his successor
City Administrator
1920 County Road 90
Independence, MN 55359
mark.kaltsas@ci.independence.mn.us

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf respectively by their duly authorized representatives. This Agreement is effective on the date this Agreement is signed by the Council's authorized representative.

METROPOLITAN COUNCIL

By: _____

Its: Regional Administrator

Date: _____

Approved as form:

Independence City Attorney

CITY OF INDEPENDENCE

By: _____

Its: Mayor

Date: _____

Exhibit A

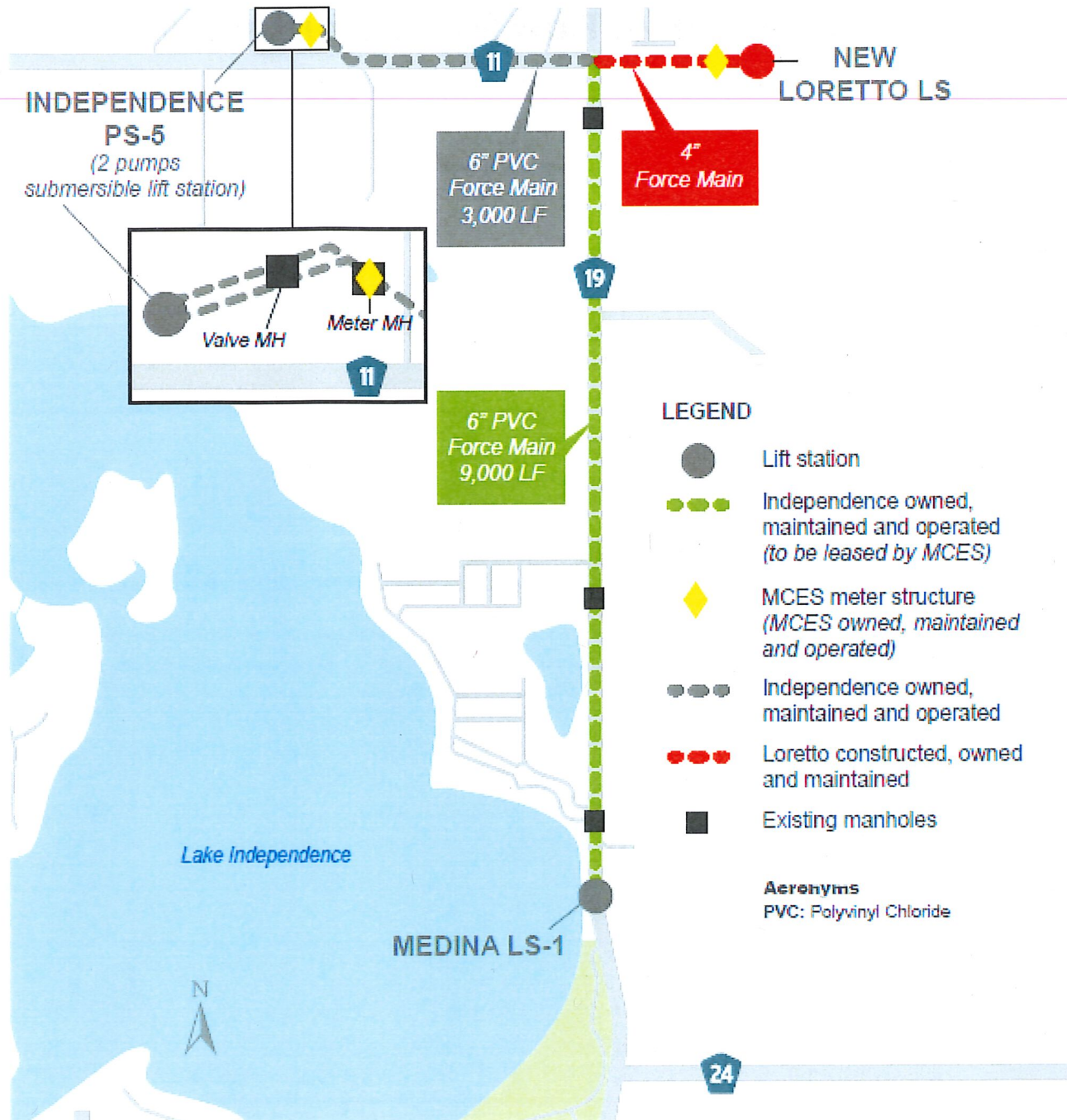


Exhibit B
Bill of Sale for Flow Meter Structure

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS, that the CITY OF INDEPENDENCE, a municipal corporation under the laws of the State of Minnesota for mutual consideration, the sufficiency and receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the METROPOLITAN COUNCIL, a public corporation and political subdivision under to laws of the State of Minnesota, its successors and assigns forever, the following goods, chattel and personal property, to wit:

The 48" diameter meter structure outside the City lift station LS#13 (Pump station # 5) located at the Townline Road and County Rd. 11.

TO HAVE AND TO HOLD the same unto the METROPOLITAN COUNCIL, its successors and assigns forever, and the City of Independence covenants and agrees to and with the Metropolitan Council, its successors and assigns, that it is the lawful owner of said goods, chattels and personal property and has good right to sell the same as aforesaid and that the same are free from all encumbrances and the City of Independence will warrant and defend the sale of such goods, chattels and personal property hereby made unto the Metropolitan Council, its successors and assigns, against all and every person and persons whomever lawfully claiming or to claim the whole or any part thereof subject encumbrances, if any, hereinbefore mentioned.

IN WITNESS WHEREOF, the City of Independence has set its hand this _____ day of _____, 20____.

City of Independence,
a municipal corporation of the State of Minnesota

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, _____ of the City of Independence, a municipal corporation of the State of Minnesota, on its behalf.

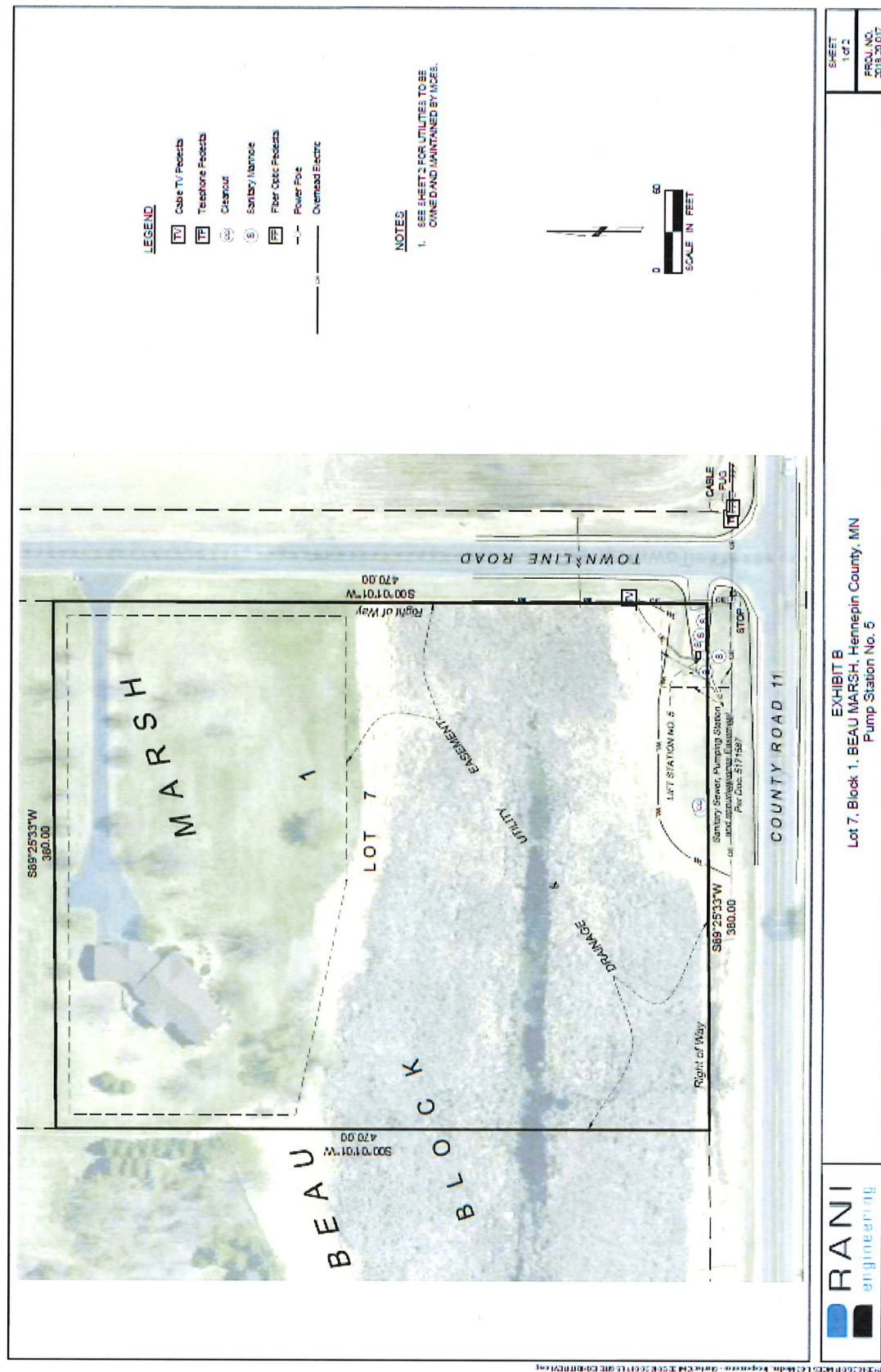
Notary Public

DRAFTED BY:
Real Estate Office
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

Exhibit C

Drainage and Utility Easement





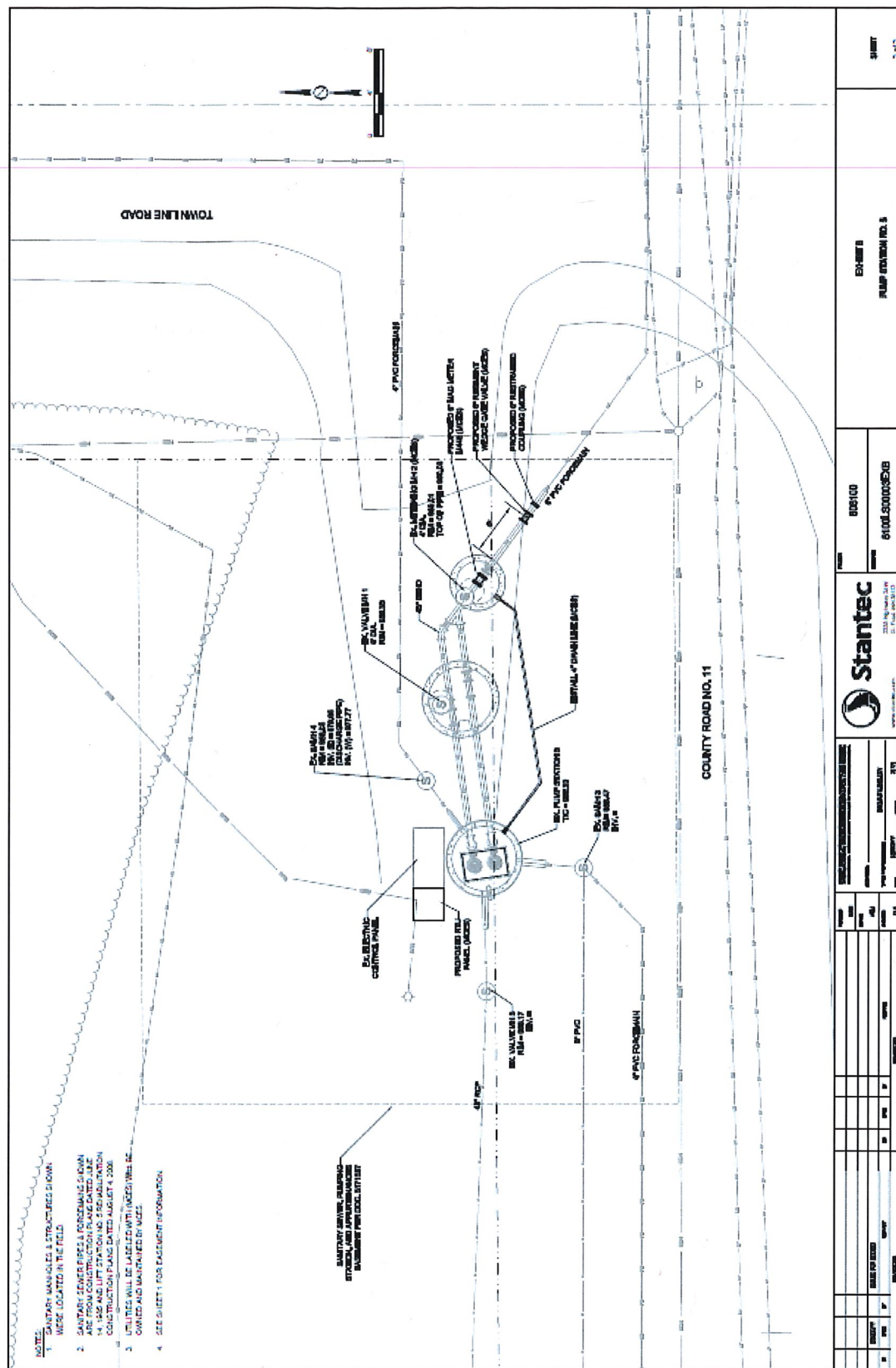


Exhibit D

Operations and Maintenance Cost

Items	Annual Cost
Electrical Cost to Pump Against Additional Loretto flow	\$200
Pumps and Impellers Maintenance	\$2,190
Forcemain Maintenance (Air release valve)	\$350
Total Cost	\$2,740

Note: Electrical Cost was calculated based on the head condition that will increase by 10 feet when Loretto is pumping.

Projected Annual Payments

		CPI*		
Annual 2018 costs (rounded)		3	\$2,740	
2019		3	\$2,822.20	
2020		3	\$2,906.87	
Start of Yearly Payment				Yearly Payment (Rounded)
2021	Year 1	3	\$2,994.07	\$2,994
2022	Year 2	3	\$3,083.89	\$3,084
2023	Year 3	3	\$3,176.41	\$3,176
2024	Year 4	3	\$3,271.70	\$3,272
2025	Year 5	3	\$3,369.85	\$3,370
2026	Year 6	3	\$3,470.95	\$3,471
2027	Year 7	3	\$3,575.08	\$3,575
2028	Year 8	3	\$3,682.33	\$3,682
2029	Year 9	3	\$3,792.80	\$3,793
2030	Year 10	3	\$3,906.58	\$3,907
2031	Year 11	3	\$4,023.78	\$4,024
2032	Year 12	3	\$4,144.50	\$4,144
2033	Year 13	3	\$4,268.83	\$4,269
2034	Year 14	3	\$4,396.90	\$4,397
2035	Year 15	3	\$4,528.80	\$4,529
2036	Year 16	3	\$4,664.67	\$4,665
2037	Year 17	3	\$4,804.61	\$4,805
2038	Year 18	3	\$4,948.74	\$4,949
2039	Year 19	3	\$5,097.21	\$5,097
2040	Year 20	3	\$5,250.12	\$5,250
Total Annual Costs				\$80,453

Note: 3% annual inflation rate assumed for purpose of establishing total agreement amount.

Maximum Agreement Costs

Total Annual Costs	\$80,453
Allowance (Annual major improvements)	\$75,000
Flow Meter Acquisition	<u>\$25,000</u>
Total Agreement Costs	\$180,453
10% Contingency	<u>\$18,045</u>
TOTAL	\$198,498