

ECONOMIC DEVELOPMENT LOAN AGREEMENT

This Agreement is entered into between the City of Marshalltown, Iowa (the “Lender”) and Timber Ridge Senior Limited Partnership (d/b/a Timber Ridge Senior) (the “Borrower”) as of the ____ day of April, 2023.

WHEREAS, Borrower owns certain real property which is situated in the City of Marshalltown, Iowa and is more specifically described on Exhibit A hereto (the “Property”); and

WHEREAS, Borrower has proposed to undertake the construction of a low-income housing project on the Property (the “Project”); and

WHEREAS, Borrower has requested an economic development loan from the Lender in the amount of \$320,000 (the “Loan”) to assist in paying the costs associated with the construction of the Project; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons; and

NOW THEREFORE, the parties hereto agree as follows:

A. Borrower’s Covenants

1. Project Construction. Borrower agrees to construct the Project on the Property. Borrower agrees to construct the Project in conformance with the site plan upon which approval of the corresponding building permits will be issued. The Borrower agrees to substantially complete such construction by no later than June 17, 2024. The Project shall minimally include the construction of a 42 unit senior housing project.

During the Term (as hereinafter defined) of this Agreement, Borrower agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Further, during the Term of this Agreement, Borrower agrees to obtain and continuously maintain adequate insurance covering the Property, including the Project. Borrower agrees to notify the Lender promptly in the case of damage exceeding \$320,000 in amount to, or destruction of the Project resulting from fire or other casualty.

2. Marketing and Rental of the Project. The Borrower agrees to use best efforts to promote the rental of the Project at rental rates sufficient to repay the Loan to the Lender.

3. Economic Development Loan. Borrower agrees to apply the proceeds of the Loan to the payment and/or reimbursement of the costs of the construction of the Project.

Principal of the Loan shall bear interest of 1% per annum. The Loan is payable as to principal in-full on March 31, 2039 (the “Maturity Date”).

Payment of principal of the Loan shall be made to the City of Marshalltown at the Office of the City Clerk, City Hall, 24 N Center Street, Marshalltown, Iowa 50158-4912 by 12:00 p.m. on the Maturity Date.

Principal of the Loan is subject to prepayment without penalty by the Borrower in any amount at any time.

The Borrower agrees to execute and deliver to the Lender a Promissory Note (the “Note”) in substantially the form attached hereto as Exhibit B, in evidence of the Borrower’s obligation under this section.

The Loan shall have such additional terms and conditions as provided for in the Note.

4. Mortgage. The Borrower agrees to secure its obligations under the Loan by executing, delivering and properly recording a mortgage (the “Mortgage”) in favor of the Lender, thereby granting to the Lender a subordinate security interest in the Property, including the Project. The Mortgage shall be in substantially the form as shall be presented to the Borrower by the Lender, subject to reasonable negotiation and modification. The Mortgage shall be promptly released by the Lender upon full repayment of principal of the Loan.

5. Guaranty Agreement. Timber Ridge Senior Equities, L.L.C., an Iowa limited liability company, whose mailing address is 3721 SW 61st Street, Suite A, Des Moines, Iowa 50321, is executing a guaranty agreement in favor of the Lender with respect to the Loan (the “Guaranty”). The Guaranty shall be in substantially the form attached hereto as Exhibit C, subject to reasonable negotiation and modification. The Guaranty terminates upon the payment and performance of the Obligations (as defined in the Guaranty).

6. Legal and Administrative Costs. The Borrower hereby agrees to reimburse Lender for its legal fees and administrative costs incurred in connection with the drafting, negotiation and authorization of this Agreement up to an amount not in excess of \$12,500. The Borrower agrees to remit payment to the Lender within 30-days of the submission of reasonable documentation by the Lender to the Borrower evidencing such costs.

B. Lender’s Obligations

1. Economic Development Loan. The Lender hereby agrees to advance the proceeds of the Loan to Borrower in the amount of THREE HUNDRED TWENTY THOUSAND DOLLARS (\$320,000) within ninety (90) days of the date of this Agreement.

C. Events of Default, Remedies & Offset.

1. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default:

a. The Borrower shall fail to make when due, whether by acceleration or otherwise, any payment of principal of the Loan.

b. Any representation or warranty made by or on behalf of the Borrower in this Agreement or any other loan document or by or on behalf of the Borrower in any certificate, statement, report or document herewith or hereafter furnished to the Lender pursuant to this Agreement or any other loan document shall prove to have been materially false on the date as of which the facts set forth are stated or certified.

c. The Borrower shall fail to comply with any of the covenants contained in Sections A.1, A.2, A.4 and A.5.

d. The Borrower shall become insolvent or shall generally not pay its debts as they mature or shall apply for, shall consent to, or shall acquiesce in the appointment of a custodian, trustee or receiver of the Borrower or for a substantial part of the property thereof or, in the absence of such application, consent or acquiescence, a custodian, trustee or receiver shall be appointed for the Borrower or for a substantial part of the property thereof and shall not be discharged within 45 days, or the Borrower shall make an assignment for the benefit of creditors.

e. Any Bankruptcy, reorganization, debt arrangement or other proceedings under any Bankruptcy or insolvency law shall be instituted by or against the Borrower, and, if instituted against the Borrower, shall have been consented to or acquiesced in by the Borrower, or shall remain undismissed for 60 days, or an order for relief shall have been entered against the Borrower.

f. Any dissolution or liquidation proceeding shall be instituted by or against the Borrower, and, if instituted against the Borrower, shall be consented to or acquiesced in by the Borrower or shall remain for 45 days undismissed.

g. A judgment or judgments for the payment of money in excess of the sum of \$200,000 in the aggregate shall be rendered against the Borrower and either (i) the judgment creditor executes on such judgment or (ii) such judgment remains unpaid or undischarged for more than 60 days from the date of entry thereof or such longer period during which execution of such judgment shall be stayed during an appeal from such judgment.

h. The maturity of any material indebtedness of the Borrower (other than indebtedness under this Agreement) shall be accelerated upon any uncured event of default, or the Borrower shall fail to pay any such material indebtedness when due (after the lapse of any applicable grace period) or, in the case of such indebtedness payable on demand, when demanded (after the lapse of any applicable grace period), or any event shall occur or condition shall exist and shall continue for more than the period of grace, if any, applicable thereto and shall have the effect of causing, or permitting the holder of any such indebtedness or any trustee or other person acting on behalf of such holder to cause, such material indebtedness to become due prior to its stated maturity or to realize upon any collateral given as security therefor. Notwithstanding the foregoing, any matter leading to a claim that indebtedness has been accelerated shall not be considered a default under this Section C.1.h. if the matter is being disputed in good faith by the Borrower. For purposes of this Section, indebtedness of the Borrower shall be deemed

“material” if it exceeds \$200,000 as to any item of indebtedness or in the aggregate for all items of indebtedness with respect to which any of the events described in this Section has occurred.

i. Any execution or attachment shall be issued whereby any substantial part of the property of the Borrower shall be taken or attempted to be taken and the same shall not have been vacated or stayed within 30 days after the issuance thereof.

2. Remedies. If any Event of Default described in Section C.1 shall occur and be continuing for a period of five (5) days (unless Section C.1 provides for a longer period) after notice of such Event of Default has been given to the Borrower, then the Lender may declare the outstanding unpaid principal balance of the Note to be forthwith due and payable, whereupon the Note shall immediately become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything in this Agreement or in the Note to the contrary notwithstanding. Upon the occurrence of any of the events described in the preceding sentence the Lender may exercise all rights and remedies under any of the loan documents, and enforce all rights and remedies under any applicable law.

3. Notice and Cure Rights. The Lender agrees to give Borrower's Limited Partner (MHEG Fund 56, LP, a Nebraska limited partnership) written notice of any and all defaults by the Borrower under the Loan Documents, and an opportunity, at the Limited Partner's option, to cause the cure of such default within the cure periods set forth below, prior to exercising any remedies under the Loan Documents. The Lender agrees that the Limited Partner will have ten (10) days after the Limited Partner's receipt of notice of such default to cure, or cause the cure of a monetary default under the Loan Documents, and thirty (30) days (or such longer period as is set forth in the Loan Documents) after the Limited Partner's receipt of such notice to cure any non-monetary defaults under the Loan Documents, or, as to non-monetary defaults, such longer period as is reasonably necessary for the Limited Partner to cause cure, provided that cure is commenced within the above cure period and diligently prosecuted, including, without limitation, such time period as is necessary to remove Borrower's General Partner, if necessary in order to effect a cure. The Lender agrees to accept cure by the Limited Partner as if such cure were made by Borrower.

D. Administrative Provisions

1. Assignment. Neither party shall have the right to cause the Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the other party.

2. Successors. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. Term. The term (the “Term”) of this Agreement shall commence on the Commencement Date and end on March 31, 2039, or such earlier date on which the Loan is paid in full.

4. Choice of Law. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

5. Notices. All notices and other correspondence shall be sent to the parties hereto as follows:

If to Borrower: Timber Ridge Senior Limited Partnership
Attn: James B. Conlin
3721 NW 61st Street, Suite A
Des Moines, Iowa 50321

With a copy to: Kelly D. Hamborg
Brown Winick Law Firm
666 Grand Avenue, Suite 2000
Des Moines, Iowa 50309

If to the Lender: City of Marshalltown
Attn: City Manager
24 North Center Street
Marshalltown, Iowa 50158

Notices shall be in writing and personally delivered, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent via “next business day service” by means of any courier providing such service and proof of delivery. Notice shall be effective upon being deposited in the United States Mail or delivered to such courier providing “next business day service”, however, the time period in which any response to any notice or request must be made shall commence on the earlier of (i) the date which is three (3) days following the date when such shall be properly deposited in the United States mail, (ii) the date which is one (1) business day following the date when such shall be delivered to a next business day service, or (iii) the date such notice is received.

Copies of all notices to Borrower under the Loan Documents shall be sent to Borrower's Limited Partner in accordance with the procedures for delivering notices set forth in the Loan Documents to the following address or such alternate or additional contact names and/or addresses of which Lender is so notified in writing by the Limited Partner:

With a copy to:

MHEG Fund 56, LP
c/o Midwest Housing Equity Group, Inc.
515 N 162nd Avenue, Suite 202
Omaha, Nebraska 68118
Attention: President

With a copy to:

Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102 2186
Attention: Asher R. Ball, Esq.

6. Recordation. Lender shall not record this Agreement without the prior written consent of the Borrower.

7. Captions. The captions in this Agreement have been inserted solely for convenience of reference and are not a part of this Agreement and shall have no effect upon construction or interpretation.

The Lender and the Borrower have caused this Agreement to be signed, and the Lender's seal to be affixed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF MARSHALLTOWN, IOWA

By _____
Mayor

Attest:

City Clerk

TIMBER RIDGE SENIOR LIMITED
PARTNERSHIP

By Timber Ridge Senior Equities, L.L.C., its
general partner

By _____
James B. Conlin, Manager

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

The West Half of Lot 2 and all of Lots 3, 4, 5 and 6; and the North 180 feet of the North and South alley, all in Block 5 in Andrews' Addition to the Town of Marshall, Marshall County, Iowa

EXHIBIT B

FORM OF PROMISSORY NOTE

MAXIMUM PRINCIPAL AMOUNT: \$320,000

Interest Rate: 1%

Dated: _____, 2023

Maturity Date: March 31, 2039

Timber Ridge Senior Limited Partnership (the “Borrower”) for value received, promises to pay, to the City of Marshalltown, Iowa (the “Lender”), its successors or assigns, the principal sum of Three Hundred Twenty Thousand Dollars (\$320,000), in lawful money of the United States of America. This Note shall bear interest of 1% per annum.

The Lender has made a loan to the Borrower in the principal amount of \$320,000 (the “Loan”) under this Note and under a certain Economic Development Loan Agreement (the “Loan Agreement”) between the Lender and the Borrower dated _____, 2023, and reference is hereby made to the Loan Agreement for a more complete description of the rights and obligations of the parties hereof.

The Borrower shall repay principal of the Loan in-full by the Maturity Date set forth above. Payment of interest on and principal of the Loan shall be made to the City of Marshalltown at the Office of the City Clerk, City Hall, 24 N Center Street, Marshalltown, Iowa 50158-4912 by 12:00 p.m. on the Maturity Date.

Commencing on March 31, 2024, and continuing on March 31 of each year thereafter, interest payments of \$3,200 shall be paid to the Lender. By March 31, 2039, the Borrower will pay the Lender the \$320,000 principal amount outstanding.

The Borrower reserves the right to prepay principal of this Note, in whole or in part, without penalty, at any time prior to maturity.

In the event of a default hereunder which has not been cured in accordance with the terms of the Loan Agreement, including the failure to make payment of principal as it comes due under the terms of the Loan Agreement, the Borrower agrees to pay all costs and expenses of collection, including reasonable attorney’s fees. The Borrower waives demand, presentment, notice of non-payment, protest, notice of protest and notice of dishonor.

This Note is secured pursuant to a mortgage and payment is guaranteed pursuant to a guarantee agreement, and its maturity is subject to acceleration in each case upon the terms provided in the Loan Agreement.

The validity, construction and enforceability of this Note shall be governed by the internal laws of the State of Iowa without giving effect to the conflict of laws principles thereof.

TIMBER RIDGE SENIOR LIMITED
PARTNERSHIP

By Timber Ridge Senior Equities, L.L.C., its
general partner

By _____
James B. Conlin, Manager

EXHIBIT C

Form of Guaranty