



**Special Meeting
A G E N D A
August 11, 2020
VIRTUAL MEETING
4:00 P.M.**

Notice is hereby given of a Special Meeting to be held before the City of Wheat Ridge Housing Authority on August 11, 2020 at 4:00 p.m.

This meeting will be conducted as a VIRTUAL MEETING. No members of the Authority or City Staff will be physically present at the municipal building for this meeting. The public may not attend in person, however, the public may participate in these ways:

- Join the live meeting through the Zoom web link provided on the calendar on the City's website at www.ci.wheatridge.co.us/calendar.
- Join the live meeting by calling (669) 900-6833 with code 966 4616 0667

A. Call Meeting to Order

B. Roll Call

C. Approval of Minutes:

1. November 19, 2020

D. Officers Reports

E. Public Forum

F. New Business

1. Special Limited Partner for Wheat Ridge Town Center North Apartments
2. Resolution 01-2020: Establishing a designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law
3. 2020 Budget Adoption

G. Old Business

H. Other

I. Adjournment

Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Sara Spaulding, Public Information Officer at 303-235-2877 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.



**Minutes of Special Meeting
November 19, 2019**

A. CALL THE MEETING TO ORDER

The meeting was called to order at 4:00 p.m. by Chair Thompson in the Second Floor Conference Room of the Municipal Building, 7500 West 29th Avenue, Wheat Ridge, Colorado.

B. ROLL CALL OF MEMBERS

Authority Members Present: Thomas Abbott
Chad Harr
Cheyanne Kinghorn
Janice Thompson
Amanda Weaver

Authority Members Absent: None

Also Present: Lauren Mikulak, Staff Liaison
Tammy Odean, Recording Secretary

C. APPROVAL OF MINUTES:

1. November 24, 2018

It was moved by Mr. Abbott and seconded by Mr. Harr to approve the minutes of November 24, 2018.

Motion approved 3-0 With Ms. Kinghorn and Ms. Weaver abstaining.

D. OFFICERS REPORTS

- There was an introduction of new members and Ms. Thompson and Ms. Mikulak gave a brief explanation of their tour of Fruitdale Lofts and its transformation from school to residential lofts.

E. PUBLIC FORUM

There was nobody present from the public to speak.

F. NEW BUSINESS

1. Special Limited Partner for Wheat Ridge Town Center Apartments

Ms. Mikulak gave a brief explanation of the Housing Authorities partnership with the Wheat Ridge Town Center Apartments which are age restricted/income restricted. The partnership would help offset their property tax liability which was recommended by the County Assessor's Office. She added that at the last meeting the members approved the idea of the partnership, but need the agreement to be modified to reflect inflation.

Tyler Downs, Wazee Partners

Mr. Downs expanded the explanation on why he is here today and the assessment process that happens every 2 years.

Ms. Thompson asked about the third building and when it is built and if they will need a partner then, as well.

Mr. Downs mentioned it will not be a project that is tax credit subsidized. It will still be senior living, but moderate incomes.

Ms. Thompson asked if the compliance period can be explained.

Chris Gunlikson, Holland and Hart

Mr. Gunlikson said the compliance period is 15 years and the Housing Authority can elect to withdraw at that time, but it will probably be less than that. Mr. Downs added that the compliance period is for purposes of the tax credit compliance period, which is the subsidies used to build the project. He also mentioned that this project is land use restricted for 40 years and will be affordable for 40 years, not just 15 years.

Ms. Mikulak added that the Housing Authority could stay in longer than the 15 years, but the agreement would have to be restructured.

Ms. Kinghorn asked if the state statute that is providing the offset is that long standing.

Mr. Gunlikson said it has not been changed or modified.

Ms. Kinghorn asked if there is an average payment or percentage paid to a Housing Authority in these kinds of partnerships.

Mr. Down and Mr. Gunlikson collectively stated that it is all over the map and sometimes a Housing Authority will ask for right of first refusal to buy the property. They added that it also depends on how involved the Housing Authority wants to be and they gave examples.

Mr. Harr asked if this partnership is costing the City.

Ms. Mikulak said in this agreement we do not supply any services so no it does not cost the City anything. Mr. Downs added that at the end of the compliance period the Housing Authority could take a bigger role if desired.

It was moved by Mr. Harr and seconded by Ms. Weaver to APPROVE the Wheat Ridge Housing Authority as a Special Limited Partner in the ownership entity of the Wheat Ridge Town Center Apartments and further move to authorize the Executive Director to execute the ownership agreement on behalf of the board and based on the terms as presented.

Motion approved 5-0.

2. Resolution 01-2019: Establishing a designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law.

A brief explanation was given by Ms. Mikulak.

It was moved by Ms. Weaver and seconded by Ms. Kinghorn to approve Resolution No. 01-2019, a resolution establishing a designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law.

Motion approve 5-0.

3. 2019 Budget Adoption

Ms. Mikulak explained that the Housing Authority will be paying a minimal amount for staff time and accounting. She mentioned that the budget is pretty straight forward and would anticipate the same for 2020.

Mr. Harr wanted an explanation of the restricted funds for Fruitdale.

Ms. Mikulak said the restricted funds are on the budget sheet because of the loan we made and it is long-term.

Ms. Weaver mentioned that even though the Housing Authority does not have much of a budget, she would like to see a report that can be put out to the public to see what the Housing Authority has done in the past and what the goals are. Ms. Kinghorn added that it would be nice to see the numbers and know on a broader scale what the goal of the Housing Authority is.

Ms. Mikulak explained that in 2017 the Housing Authority revised the goals to become a resource and a partner, and the Authority will not function as a developer and will not own property.

There was then discussion about affordable housing and home ownership as opposed to rentals in the City.

It was moved by Ms. Kinghorn and seconded by Mr. Harr to approve Resolution No. 2, a resolution enacting a budget and appropriation for the year 2019.

Motion approved 5-0.

G. OLD BUSINESS

H. OTHER

I. ADJOURNMENT

It was moved by Mr. Abbott and seconded by Ms. Weaver to adjourn the meeting at 5:13 p.m.

Motion carried 5-0

Janice Thompson, Chair

Tammy Odean, Recording Secretary



To: Chair and Members of the Wheat Ridge Housing Authority

From: Lauren Mikulak, WRHA Staff Liaison

Subject: Proposed Partnership Opportunity – Town Center North Apartments

Date: August 5, 2020 (for August 11 meeting)

BACKGROUND

Two years ago, at the August 14, 2018 meeting, the Wheat Ridge Housing Authority considered a proposal to become a limited partner in the ownership entities of the Wheat Ridge Town Center Apartments and the Town Center North Apartments (see attached vicinity map). Both properties are income- and age-restricted and both included low income housing tax credits. The purpose of a partnership is to invoke a state statute whereby a housing authority's ownership participation in an affordable housing project can offset property tax liability.

The developer and owner of the projects, Tyler Downs, presented the proposal in 2018 which, at the time, included a fixed fee and project sale bonus. The original proposal describes the two properties and is attached for reference. After discussion at the August 2018 meeting, consensus among board members was to support partnership, but the Authority requested that Mr. Downs and his attorney modify the agreements such that the fees are flexible instead of fixed and can fluctuate with economic indicators or with the rise and fall of the projects.

In August 2018, WRHA Members approved a motion 4 to 0 in support of the Authority joining the ownership entities of Wheat Ridge Town Center Apartments (WRTCA) and Town Center North Apartments (TCNA) as a limited partner and directing staff to present a proposed agreement at a future Wheat Ridge Housing Authority meeting.

Each of the two properties have different ownership structures and partners, and each require separate agreements. Last year, at a meeting on November 19, 2019, the Housing Authority reviewed and approved agreements related to the Wheat Ridge Town Center Apartments—the southern and larger of the two properties. The terms of that agreement provide an annual fee of \$15,000 to the Authority for a period of 15 years, and such fee can be adjusted for inflation based on the Consumer Price Index (CPI).

PROPOSED AGREEMENT

The purpose of the August 11, 2020 meeting is to review the agreements associated with the second property—Town Center North Apartments. The agreements for this property have lagged because the ownership and tax structure are different than WRTCA and more complicated.

Ultimately, however, the terms of this agreement are quite similar to the first. This property is smaller in size and unit count, and the annual fee therefore is smaller at \$10,000. In this case, the fee is adjusted 3% annually, per the Board's 2018 discussion and request. The partnership is proposed to be in place for a period of 15 years. Sale of the property to a third-party would terminate the Authority's ownership interest, but if net proceeds are sufficient would result in a payment to the Authority in the amount of \$25,000.

Staff and the City Attorney have worked with the other ownership partners to clarify the limits of the Housing Authority's role. The primary purpose of the Authority's role is, as noted above, to offset property tax liability. Additionally, and at the request of project's tax credit investor, the agreement reflects that Housing Authority staff will make available reports produced by Jefferson County regarding the landscape of affordable housing in the County and City. The Authority will have no further obligations associated with the property.

NEXT STEPS & RECOMMENDATION

Enclosed for your review is the original August 2018 proposal from Mr. Downs as well as a final draft of the partnership and fee agreements for the Town Center North Apartments.

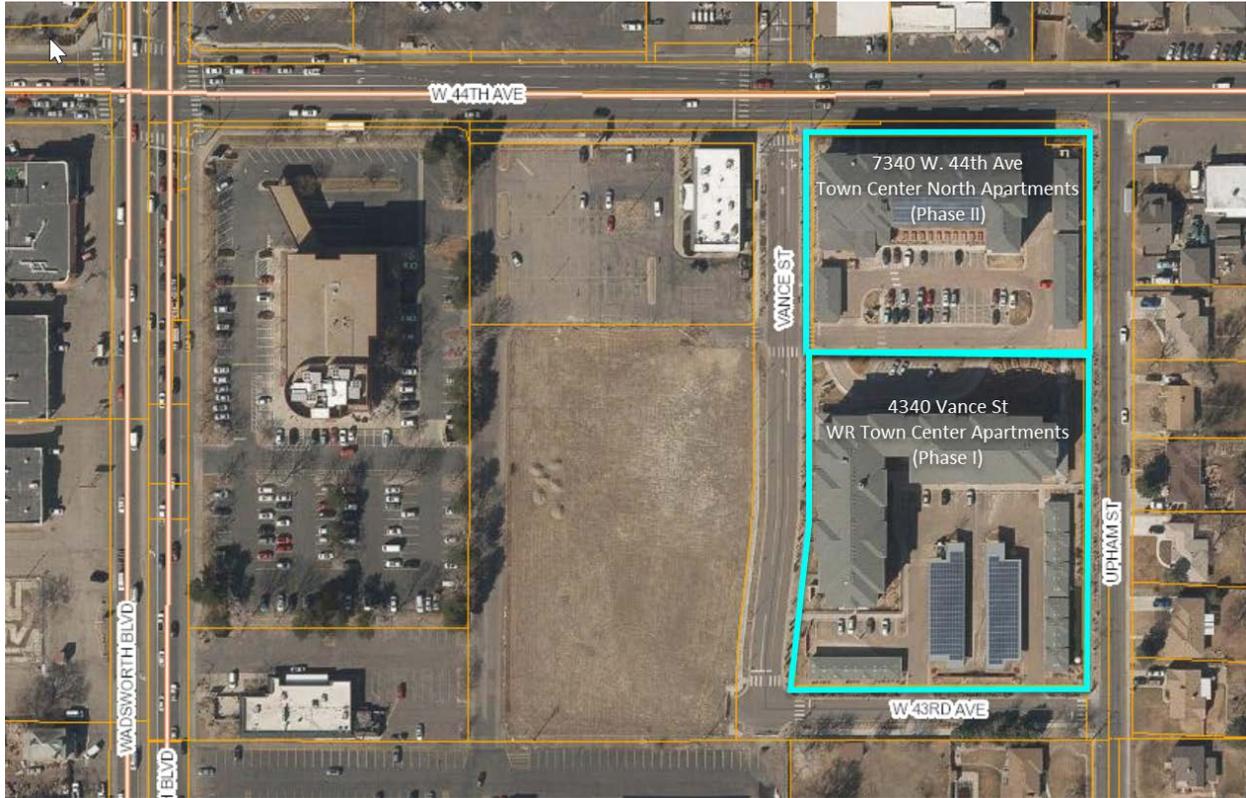
WRHA Staff as well as City Attorney Jerry Dahl have reviewed the enclosed documents. Tyler Downs and his counsel will be in attendance at the August 11 meeting to answer questions. Staff recommends the following motion to proceed with the proposed partnership:

“I move to approve the Wheat Ridge Housing Authority as an Administrative Limited Partner in the ownership entity of the Town Center North Apartments and further move to authorize the Executive Director to execute the partnership and fee agreements on behalf of the Board and based on the terms as presented.”

Attachments:

1. Vicinity Map
2. August 2018 initial proposal
3. Limited Partnership Agreement admitting WRHA as an Administrative Limited Partner
4. Compliance Management Fee Agreement

Vicinity Map





WAZEE PARTNERS, LLC

1801 Broadway, Suite 1175
Denver, CO 80202
(720) 420-1568

MEMORANDUM

TO: The Wheat Ridge Housing Authority

FROM: Wheat Ridge Town Center and Town Center North Apartments
(Chris Downs / Tyler Downs)

DATE: July 23, 2018

RE: City Housing Authority Partnership - Wheat Ridge Town Center / Town Center
North Apartments

The purpose of this memo is to describe the challenging property tax valuations for the Wheat Ridge Town Center and Town Center North Apartment properties (the “Properties”), and to outline a proposed partnership agreement between the Wheat Ridge Housing Authority (“WRHA”) resulting in a mutually beneficial arrangement.

Background

Wazee Partners developed the Wheat Ridge Town Center Apartments and Town Center North Apartments in 2012 and 2016, respectively. The southern building includes 88 units and the northern building includes 50 units. They are unique in Wheat Ridge because both properties are both income- and age-restricted. Qualifying residents must be at least 62 years old, and rents are set to accommodate those making 40-60% of the Area Median Income (AMI). Qualifying residents at the Properties have incomes between \$25,200 and \$37,800 for a single person household and between \$21,600 and \$43,200 for a two person household.

Both projects were recipients of 9% Low Income Housing Tax Credits (LIHTC), and the infrastructure at the site was made possible through partnership with the City’s Urban Renewal Authority. The LIHTC program requires that the property remain affordable for 40 years. The Properties will therefore remain rent, age and income restricted for the next 34 and 38 years, respectively. Wazee Partners has owned and operated the Properties since they opened. The project has been well received by the community – there are never any vacancies and the waitlist is currently over 2,000 people.

The Problem

The Jefferson County Assessor (the “Assessor”) is responsible for determining the valuation of all properties in the City of Wheat Ridge. Apartment properties are classified as “Residential Property”, as opposed to “Commercial Property”, even though they produce income and are

different from typical owner occupied single family residential housing stock. Because apartments are classified as Residential Property, the only way the Assessor can legally value apartment properties is through the “Sales Comparison Approach”.

The Sale Comparison Approach to valuation creates significant problems for rent restricted, affordable multifamily housing. This limited approach requires that the Assessor value all multifamily apartment properties based on comparable sales of other “similar” apartment properties. Over the years (and across all counties), we have found that the Assessors a) do not select appropriately similar sales comparables, and b) do not adequately adjust for rent restrictions. This results in an inappropriate valuation for affordable/rent restricted properties, and in turn, creates a very high property tax burden for properties that can least afford it.

Real estate valuations are conducted by the Assessor every two years. During each valuation and assessment period, these Properties become involved in a cost and time intensive protest battle with the Assessor regarding the appropriate valuation. Even though the Assessor is required by State Statute to take into consideration existing rent restrictions, they seem to forget this required during each new assessment. Additionally, given the limited number of affordable multifamily housing sales, the universe of relevant sales comparable is very small. As a result, our Wheat Ridge affordable properties are then compared to luxury multifamily properties whose rents and values are significantly higher than ours. This results in an artificially higher property valuation and tax burden than is fitting or fair. Every two years we fight the same fight, and there seems to be no end to the substantial legal fees spent fighting the same issue time and again. A better solution exists.

Our Proposal

We would like the Wheat Ridge Housing Authority to consider being admitted into to the ownership entities for both Properties as a Special Limited Partner. This structure will allow the properties to be removed from the property tax rolls at the county. In exchange, each Property will pay WRHA an annual fee. The specific terms are outlined below:

Properties Involved:	<p>Wheat Ridge Town Center Apartments 4340 Vance Street – Wheat Ridge, CO 80033 88 units, age restricted to 62+, 100% rent restricted to 40, 50% and 60% AMI</p> <p>Town Center North Apartments 7340 W. 44th Avenue – Wheat Ridge, CO 80033 50 units, age restricted to 62+, 100% rent restricted to 40, 50% and 60% AMI</p>
WRHA Ownership Interest:	0.01% Ownership as a Special Limited Partner in each property ownership group

Annual Fee Payable to WRHA:	\$15,000 from WRTCA \$10,000 from TCNA \$25,000 total
WRHA Transaction Legal Fees:	Paid by the properties. WRTCA/TCNA will provide drafts of the partnership documents and will pay for WRHA's outside counsel
Project Sale Bonus:	\$25,000 per property if sold to a 3 rd party buyer

Legal Justification

Under CRS 29-4-227, all state, local and municipal taxes on real and personal property (i.e., real and personal property taxes, sales/use taxes, or possibly other taxes/fees otherwise owed to any state/local entity) are exempt provided the property is owned by or leased to a housing authority, or is property that is owned by another entity in a structure that involves a housing authority.

**SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP
OF
TOWN CENTER NORTH APARTMENTS, LLLP**

This Second Amendment to Amended and Restated Agreement of Limited Partnership (the "Amendment") of TOWN CENTER NORTH APARTMENTS, LLLP, a Colorado limited liability limited partnership (the "Partnership"), is made as of January 1, 2020, by and among Wazee Partners, TCNA, LLC, a Colorado limited liability company, as general partner (the "General Partner"), Wells Fargo Affordable Housing Community Development Corporation, a North Carolina corporation, as investor limited partner (the "Investor Limited Partner"), and Wheat Ridge Housing Authority, a Colorado public housing authority (the "Administrative Limited Partner") as administrative limited partner.

RECITALS

WHEREAS, the Partnership was formed as a Colorado limited liability limited partnership pursuant to a Certificate of Limited Partnership and Statement of Registration to Register as a Limited Liability Limited Partnership filed with the Colorado Secretary of State on January 21, 2014 and that certain Limited Partnership Agreement dated as of January 21, 2014;

WHEREAS, the General Partner and the Investor Limited Partner entered into that certain Amended and Restated Agreement of Limited Partnership dated as of December 16, 2014, as amended by that certain First Amendment to Amended and Restated Agreement of Limited Partnership dated as of September 13, 2016, as amended from time to time (collectively, the "Restated Agreement");

WHEREAS, the parties hereto now desire to amend the Restated Agreement to, among other things, reflect the admission of the Administrative Limited Partner, as set forth below;

WHEREAS, the Investor Limited Partner, as evidenced by its execution of this Amendment, Consents to the admission of the Administrative Limited Partner as a Limited Partner of the Partnership under the terms and conditions set forth in this Amendment;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby agree as follows:

AGREEMENT

1. **Recitals.** The Recitals set forth above are true and correct in all respects and are incorporated herein by this reference with the same force and effect as if fully set forth herein.

2. **Definitions.** Capitalized terms used and not otherwise defined herein shall have the definitions given them in the Restated Agreement. The term "Restated Agreement" as used herein shall have the same meaning as the term "Agreement" set forth in that certain Amended and

Restated Agreement of Limited Partnership of the Partnership dated as of December 16, 2014.

3. **Admission of the Administrative Limited Partner**. The parties hereto agree that, subject to the terms hereof, the General Partner hereby assigns, converts and conveys to the Administrative Limited Partner .005% of the Interest held by the General Partner immediately prior to such assignment, conversion and conveyance, which .005% Interest is hereby converted to a limited partner interest and the Administrative Limited Partner hereby acquires and assumes such .005% limited partner interest and is admitted as a Limited Partner of the Partnership.

4. **Amendment of the Agreement**.

I. Amendments related to Tax Reform and Partnership Audit Rules.

(A) ***Partnership Audit***.

(i) The following new definitions are hereby added to Section 2.01 of the Restated Agreement:

“*Partnership Representative*” means as to any year not subject to the RPAP, the “tax matters partner” of the Partnership as defined in Section 6231(a)(7) of the Code (before its repeal by the RPAP), or as to any year subject to the RPAP, the “partnership representative” of the Partnership designated in accordance with Section 6223 of the Code and, if required by law, as to such “partnership representative,” the “designated individual” as defined in the Treasury Regulations.

“*Partnership Tax Audit Rules*” means the provisions of Subchapter C of Chapter 63 of Subtitle F of the Code and any corresponding provisions of state, local or foreign law.

“*RPAP*” means Sections 6221 through 6241 of the Code, as originally enacted in P.L. 114-74, and as may be amended, and including any Treasury Regulations or other administrative guidance promulgated thereunder.

(ii) The following definitions contained in Section 2.01 of the Restated Agreement are modified as follows:

“*Change in Law*” is modified by replacing the word “which” contained therein with the word “that”.

“*Gross Asset Value*” is modified by deleting clause (iii) in its entirety.

(iii) The term “Tax Matters Partner” is hereby deleted and any reference thereto in the Restated Agreement shall be deemed changed to the term “Partnership Representative”.

(iv) The following new Section 4.04(m) is hereby added to the Restated Agreement:

“(m) To the extent that any item of income, gain, loss, deduction or credit (including any notional item) is required, pursuant to Code Sections 6225 or 6226 and the Treasury Regulations thereunder, to be taken into account in determining Capital Accounts, such item of income, gain, loss, deduction or credit shall be allocated in the manner required by Code Sections 704, 6225 or 6226, as applicable, and the Treasury Regulations thereunder.”

(B) “Section 6.02(c) shall be deleted in its entirety and replaced with the following and the following new Section 6.02(d) shall be added to the Restated Agreement:

(c) The Partners hereby designate the General Partner to serve as the Partnership Representative in accordance with Code Section 6223. The Partnership Representative shall timely designate, in accordance with the Treasury Regulations, forms, instructions and other guidance of the Service, an individual through whom the Partnership Representative will act, provided that the Partnership Representative shall obtain the prior Consent of Wells Fargo Affordable Housing Community Development Corporation, a North Carolina corporation, its predecessors and affiliates (“WFAHCDC”), and the Investor Limited Partner, if an entity other than WFAHCDC, to the designation of such individual. If a claim against the Partnership is made by the Service (a “Claim”) upon audit, the Partnership Representative shall, within ten (10) days after receiving notice of such Claim, notify WFAHCDC and the Investor Limited Partner, as applicable (such notice being referred to as a “Claim Notice”). The Partnership Representative shall promptly furnish to WFAHCDC and the Investor Limited Partner a copy of each notice or other communication received by the Partnership Representative from the Service. The Partnership Representative shall keep WFAHCDC and the Investor Limited Partner reasonably informed with regard to, and shall permit WFAHCDC and the Investor Limited Partner to be present at and participate in, any examinations of the Partnership’s affairs by the Service, including any resulting administrative and judicial proceedings.

The Partnership Representative shall not have the authority, without the Consent of WFAHCDC and the Investor Limited Partner, to do all or any of the following:

- (i) to enter into a settlement agreement with the Service concerning the adjustment or readjustment of any Partner’s allocable share of income, gains, losses, deductions or credits (or items thereof) or which purports to bind the Partnership or the Partners;
- (ii) to file a request for an administrative adjustment with the Service at any time or file a petition for judicial review with respect to the Partnership or the Apartment Complex;
- (iii) to intervene in any action brought by any other Partner for judicial review of a final judgment;

- (iv) to initiate or settle any judicial review or action concerning the amount or character of any Partnership tax items; or
- (v) to enter into an agreement extending the period of limitations for assessing or computing any tax liability against the Partnership as contemplated in Code Section 6235(b).

The relationship of the Partnership Representative to WFAHCDC and the Investor Limited Partner is that of a fiduciary, and the Partnership Representative has a fiduciary obligation to perform its duties in such manner as will serve the best interests of the Partnership, WFAHCDC and the Investor Limited Partner.

The Partnership shall indemnify the Partnership Representative from and against judgments, fines, amounts paid in settlement, and expenses (including attorneys' fees) reasonably incurred in any civil, criminal or investigative proceeding in which it is involved or threatened to be involved by reason of being the Partnership Representative, provided that the Partnership Representative acted in good faith, within what is reasonably believed to be the scope of its authority and for a purpose which it reasonably believed to be in the best interests of the Partnership, the Partners or WFAHCDC. The Partnership Representative shall not be indemnified under this provision against any liability to the Partnership, its Partners or WFAHCDC to any greater extent than the indemnification allowed by Section 6.06 of this Agreement. The indemnification provided hereunder shall not be deemed to be exclusive of any other rights to which those indemnified may be entitled under any applicable statute, agreement, vote of the Partners, or otherwise.

(d) If the Partnership receives a notice of final partnership adjustment from the Service, the Partnership Representative shall promptly forward a copy of such notice to WFAHCDC and the Investor Limited Partner and their respective legal counsel (in accordance with Section 14.02). The Partnership Representative shall, unless otherwise directed in writing by WFAHCDC and the Investor Limited Partner, timely file an election described in Code Section 6226(a) with respect to any notice of final partnership adjustment received by the Partnership and take such other actions as are required so that Code Section 6225 shall not apply with respect to any imputed underpayment with respect to any adjustment of an item of the Partnership or any Partner's distributive share thereof. Each Partner shall take any and all actions necessary to effect such election, including but not limited to making any payments required under Code Section 6226(b). In the event that an election described in Code Section 6226(a) is not made with respect to any notice of final partnership adjustment, each Partner shall be obligated to make a capital contribution in an amount equal to such Partner's share of the imputed underpayment (and any associated interest and penalties) owed by the Partnership under Code Section 6225. For purposes of the preceding sentence, each Partner's share of such imputed underpayment (and associated interest and penalties) shall be determined by taking into account (i) such Partner's share of the Profits, Losses and Credits to which such adjustment and imputed underpayment relate, as determined by the Accountants; (ii) such Partner's obligation (if any) to indemnify, defend, or hold harmless the Partnership or any other Partner for such imputed

underpayment (and any associated interest and penalties) under this Agreement; (iii) such Partner's obligations and liabilities arising from or related to such Partner's representations, warranties and covenants in this Agreement; and (iv) the obligations of the General Partner under Section 3.05 (relating to Credit adjustments). For example, if an imputed underpayment were to relate to an adjustment or disallowance of Credits previously allocated to WFAHCDC or the Investor Limited Partner, and such adjustment or disallowance would give rise to an obligation of the General Partner to make a capital contribution under Section 3.05 (relating to Credit adjustments), then such General Partner, rather than WFAHCDC or the Investor Limited Partner, would be required to make the capital contribution described in this paragraph.

If the Partnership meets the requirements of Code Section 6221(b) to elect not to have Code Section 6221(a) apply with respect to any adjustment to Partnership tax items, the Partnership Representative may, with the written consent of WFAHCDC and the Investor Limited Partner (which consent may be withheld in WFAHCDC's and the Investor Limited Partner's sole discretion), make such election described in Code Section 6221(b) for each tax year, as applicable.

Notwithstanding anything to the contrary in Sections 6.02 (c) and (d) of this Agreement, none of the Partnership, the General Partner, or the Partnership Representative shall, without the prior written consent of WFAHCDC and the Investor Limited Partner (which consent may be withheld in WFAHCDC's and the Investor Limited Partner's sole discretion), take any action or make any election (or omit to take any action or make any election) under the Partnership Tax Audit Rules which would or could reasonably be expected to have a materially adverse effect on WFAHCDC or the Investor Limited Partner (or their respective direct or indirect owners). The rights of the WFAHCDC and the Investor Limited Partner under Sections 6.02(c) and (d) of this Agreement shall survive any sale, exchange, liquidation, retirement, redemption or other disposition of WFAHCDC or the Investor Limited Partner's Interest, the transfer of the Apartment Complex or the termination or liquidation of the Partnership. The provisions contained in Sections 6.02(c) and (d) of this Agreement shall not be deleted, amended or modified without the prior written consent of WFAHCDC and the Investor Limited Partner (which consent may be withheld in WFAHCDC's and the Investor Limited Partner's sole discretion). Solely with respect to the provisions of Sections 6.02(c) and (d) of this Agreement and notwithstanding anything to the contrary, (i) the delivery of notice to, and the receipt of direction or consent from, WFAHCDC shall only be required for Partnership actions or elections relating to years in which WFAHCDC was a Partner in the Company and (ii) [in no event shall any other Partner's direction or consent be required or permitted in connection with Partnership actions or elections relating to years in which WFAHCDC was a Partner in the Partnership.

(C) All references to the "Tax Matters Partner" in the Restated Agreement shall refer to the Partnership Representative in the place and stead of the Tax Matters Partner.

II. Amendments in connection with the admission of the Administrative Limited Partner.

- A. The following definitions contained in Section 2.01 of the Restated Agreement are hereby amended and restated as follows:

The definition of “Project Documents” is hereby amended to include the ALP Compliance Management Fee Agreement.

- B. The following definitions are hereby added to Section 2.01 of the Restated Agreement:

“ALP Compliance Management Fee” shall have the meaning provided in Section 7.06 below.

“ALP Compliance Management Fee Agreement” means that certain ALP Compliance Management Fee Agreement dated as of January 1, 2020 by and between the Partnership and the Administrative Limited Partner providing for the payment of the ALP Compliance Management Fee.

“Administrative Limited Partner” means the Wheat Ridge Housing Authority, a Colorado public housing authority.

- C. Capital Contribution of Limited Partner. The following new Section 3.03(e) shall be inserted into the Restated Agreement:

(e) Any increase in the Investor Limited Partner’s Capital Contribution pursuant to this Section 3.03 must be reflected in the Cost Certification or, if such increase is made after the Cost Certification is filed with the Agency, disclosed to the Agency in writing (which written disclosure shall be simultaneously provided to the Investor Limited Partner).

Existing subsections 3.03(e), (f) and (g) will be renumbered as subsections 3.03(f), (g) and (h), respectively. All existing references in the Restated Agreement to subsections 3.03(e), (f) and (g) shall, from and after the Effective Date hereof be deemed to refer to newly numbered subsections 3.03(f), (g) and (h), respectively.

- D. Capital Contribution of Administrative Limited Partner. The following new Section 3.03(i) of the Restated Agreement is hereby added:

“The Administrative Limited Partner has contributed in cash to the Partnership the Capital Contribution of \$100 as set forth in Exhibit I. The parties hereto agree and acknowledge that the amount reflected in Exhibit I represents the value of all property and other contributions by the Administrative Limited Partner to the Partnership as of this date (assuming cash contributions have been made in accordance with the preceding sentence) and such amount shall represent the initial Capital Account of the Administrative Limited Partner in the Partnership.”

- E. Reporting Obligations. The following paragraph will be inserted in Section 3.05(c) as the final paragraph of that subsection:

“Any Credit Shortfall Adjuster and/or Credit Shortfall Advance/Credit Adjuster Distributions pursuant to this Section 3.05 must be reflected in the Cost Certification or, if such Credit Shortfall Adjuster and/or Credit Shortfall Advance/Distribution arises after the Cost Certification is filed with the Agency, disclosed to the Agency in writing (which written disclosure shall be simultaneously provided to the Investor Limited Partner).”

- F. Profits and Losses. Section 4.01(a) of the Restated Agreement is hereby amended and restated in its entirety to read as follows:

“(a) Subject to Section 4.04 hereof, all Profits, Losses and Credits incurred or accrued after the Admission Date, other than those arising from a Capital Event, shall be allocated 99.99% to the Investor Limited Partner, 0.005% to the General Partner and 0.005% to the Administrative Limited Partner (provided, however, that in the event the General Partner receives a distribution of Cash Flow in any year pursuant to Section 4.02(a)(ix) an equivalent amount of gross income shall be allocated to the General Partner in such year).”

- G. Article IV, As to Losses Subsections 4.01(b)(ii), 4.04(i), 4.04(j) and 4.04(k) of the Restated Agreement are amended by, in each case, replacing “0.01% to the General Partner” with “0.005% to the General Partner and 0.005% to the Administrative Limited Partner.”

- H. Section 4.02(a) is hereby amended to insert the following clause as a new subprovision (v), and the existing subprovisions (v), (vi), (vii) and (viii), shall be renumbered and referred to as subprovisions (vi), (vii), (viii) and (ix), respectively. All existing references in the Restated Agreement to subsections 4.02(a)(vi), (vii), (viii) and (ix) shall, from and after the Effective Date hereof be deemed to refer to newly numbered subsections 4.02(a)(vi), (vii), (viii) and (ix), respectively.

“(v) Fifth, to Administrative Limited Partner, the ALP Compliance Management Fee, and any accrued ALP Compliance Management Fees due and owing to the Administrative Limited Partner due to the insufficiency of Cash Flow in any prior fiscal year;”

- I. Section 4.02(b) is hereby amended to insert the following clause as a new subprovision (vi), and the existing subprovisions (vi) and (vii) shall be renumbered as subprovisions (vii) and (viii), respectively. All existing references in the Restated Agreement to subsections 4.02(b)(vi) or 4.02(b)(vii) shall, from and after

the Effective Date hereof be deemed to refer to newly numbered subsections 4.02(b)(vii) and (viii), respectively.

“(vi) Sixth, to the extent available from available Net Proceeds received in connection with the sale of all or any substantial part of the assets of the Partnership to a unaffiliated buyer, but not from any refinancing of any Mortgage Loan or any other source, the amount of \$25,000.00 to the Administrative Limited Partner, together with any accrued and unpaid ALP Compliance Management Fee.”

- J. Section 4.03(a) shall be amended by modifying the exclusionary clause following the references to 4.02(a)(ii) and 4.02(b)(ii) in the first sentence thereof so that the exclusion shall read: “but excluding any Incentive Management Fees and ALP Compliance Management Fees,”
- K. Section 6.03(b) shall be amended by modifying the initial clause so that it reads as follows: “The General Partner shall not, without the Consent of the Investor Limited Partner (unless obtaining such Consent is inconsistent with the Uniform Act), and, with respect to Sections 6.03(b)(i), (vi), (vii), (viii), (x), and (ix), without obtaining the reasonable approval of the Administrative Limited Partner:”;
- L. Section 6.05(b)(i) shall be amended by inserting “or the Administrative Limited Partner’s” following the reference to “General Partner’s” therein;
- M. Section 6.05(b)(iii) shall be amended by inserting “or the Administrative Limited Partner” following the reference to General Partner therein;
- N. A new representation shall be added as Section 6.09 (aa):

“The execution and delivery by the Administrative Limited Partner of this Agreement and the transactions contemplated hereby have been duly authorized, and the consummation of any such transactions contemplated hereby with or on behalf of the Partnership does not constitute a breach or violation of, or a default under, the statutes, regulations, bylaws or other governing instruments of the Administrative Limited Partner or any agreement by which it or any of its property is bound, nor a violation of any law, administrative regulation or court decree, any of which would have a material adverse effect on the Partnership.”

- O. Section 6.10(p) of the Restated Agreement is amended to require that all insurance policies required under clauses (i) and (ii) thereunder shall also name the Administrative Limited Partner as an “Additional Insured”.
- P. The following new Section 7.06 is hereby added to the Restated Agreement:

Section 7.06. ALP Compliance Management Fee. Following the

admission of the Administrative Limited Partner as a Limited Partner in the Partnership, and in connection with any calendar year where the Partnership receives any of the anticipated benefits under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b) described above as a result of the Administrative Limited Partner's status as a Limited Partner of the Partnership, and also in consideration of the Administrative Limited Partner's agreement to provide the Compliance Management Services described herein during such calendar year, the Partnership shall pay to the Administrative Limited Partner an annual cumulative fee (the "ALP Compliance Management Fee"). Subject to the terms hereof and Article IV of this Agreement, the ALP Compliance Management Fee shall be payable on or before January 30 following the close of any such calendar year. The ALP Compliance Management Fee shall be \$10,000, subject to proration based on the portion of the calendar year during which the Administrative Limited Partner is a Limited Partner of the Partnership. Beginning with the calendar year 2021, and for each successive calendar year thereafter, the ALP Compliance Management Fee payable in connection with such calendar year shall increase by 3%. The ALP Compliance Management Fee is payable in arrears to the extent of available Cash Flow or Net Proceeds as defined in Article IV of the Partnership Agreement. To the extent there is insufficient Cash Flow or Net Proceeds in any calendar year to compensate the Administrative Limited Partner in any year, the ALP Compliance Management Fee shall accrue and be paid out of available Cash Flow or Net Proceeds, as applicable. As the result of the Administrative Limited Partner's status as a Limited Partner of the Partnership for all purposes pursuant to Sections 8.01 through 8.05, inclusive, certain property owned by the Partnership may be exempt from state, local and municipal taxes, including administrative assessments and *ad valorem* real property taxes, under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b). However, the Administrative Limited Partner makes no warranties or representations to the Partnership, the General Partner, the Investor Limited Partner or the Administrative Limited Partner regarding the applicability of C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b) to any property of the Partnership due to the admission of the Administrative Limited Partner as a Partner. Notwithstanding anything to the contrary contained herein or the ALP Compliance Management Fee Agreement, the ALP Compliance Management Fee shall be earned by the Administrative Limited Partner for any calendar year or portion thereof where the Partnership receives the benefits under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b). Under Section 9.03 of the Partnership Agreement, the Administrative Limited Partner may, at its option, withdraw as a Limited Partner of the Partnership at any time following the conclusion of the Compliance Period. If the Administrative Limited Partner so withdraws as Limited Partner pursuant to this provision, then

consistent with this Section, the ALP Compliance Management Fee payable for the calendar year in which the Administrative Limited Partner withdraws as a Limited Partner of the Partnership shall be subject to proration based on the portion of such calendar year during which Partnership receives the anticipated benefits under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b).

Q. The following new Section 9.03 is hereby added to the Restated Agreement:

“Section 9.03. Removal or Withdrawal of Administrative Limited Partner. The General Partner may remove or redeem the Administrative Limited Partner if such removal is made “for cause” or is required by law, and at least ten (10) days’ advance written notice of such removal is provided to the Investor Limited Partner. For purposes of this Section, “for cause” shall mean:

- (a) the Project ceases to comply with the low income housing standards required by state law to maintain the exemption under C.R.S. sections 29-4-226 and 29-4-227, which provisions exempt “[t]he portion of a project that is occupied by persons of low income and that is owned by...an entity in which an authority has an ownership interest” from special assessments and property taxation imposed by the State of Colorado or any political subdivision thereof,
- (b) the Partnership shall fail to (i) maintain its registration as a limited partnership, (b) maintain required insurance for the Project and list the Administrative Limited Partner as an additional insured under any insurance policies covering the Project and the Partnership; and (c) notify the Administrative Limited Partner of any default causing a material adverse effect to the Partnership relating to the Permanent Loan for the Project or the Agreement or any violation of law causing a material adverse effect to the Partnership (including environmental) relating to the Project, the Partnership or its Partners, or the General Partner materially breaches and does not cure its representations, warranties or covenants or its obligations to the Administrative Limited Partner contained in this Agreement causing a material adverse effect to the Partnership;
- (c) the Partnership files a voluntary petition of bankruptcy or insolvency or a petition for reorganization under any bankruptcy law; the Partnership consents to an involuntary petition in bankruptcy or the Partnership fails to vacate any order approving an involuntary petition within 90 days of its date of entry; or an order, judgment or decree is entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the Partnership a bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee or liquidator of all or

a substantial part of such person's assets, if the order, judgment or decree continues unstayed and in effect for 120 consecutive days;

- (d) the General Partner is no longer a Partner of the Partnership for any reason other than a removal by the Limited Partner pursuant to Section 8.04 or if any of the Partners other than the Administrative Limited Partner are in material default under the Agreement which may have a material adverse effect on the Partnership; or
- (e) the occurrence of an Administrative Limited Partner Withdrawal Event pursuant to Section 14.15 hereof.

In addition to the above removal for cause events, the Administrative Limited Partner, may, at the Administrative Limited Partner's option, withdraw from the Partnership at any time following the conclusion of the Compliance Period.”

R. The following new Section 12.07 is hereby added to the Restated Agreement:

Section 12.07. Accounting Reports to Administrative Limited Partner.

- (a) By February 20 of each calendar year, the General Partner shall provide to the Administrative Limited Partner the Partnership tax return, Schedule K-1, and all tax information necessary for the preparation of the Administrative Limited Partner's federal and state income tax returns and other tax and informational returns with regard to the jurisdiction(s) in which the Partnership is formed and in which the Project is located.
- (b) By March 1 of each calendar year, the General Partner shall send to the Administrative Limited Partner an audited financial statement for the Partnership. The audited financial statement of the Partnership will include, but not be limited to: (1) a balance sheet as of the end of such fiscal year and statements of income, Partners' equity and changes in cash flow for such fiscal year prepared in accordance with generally accepted accounting principles; (2) a report of any Distributions made at any time during the fiscal year, separately identifying Distributions from any Capital Event for the fiscal year; (2) a report setting forth the amount of all fees and other compensation and distributions and reimbursed expenses paid by the Partnership for the fiscal year to the General Partner or affiliates of the General Partner and the services performed in consideration therefor, which report will be verified by the Partnership's accountants.
- (c) Within 60 days after the end of each fiscal quarter in which a Capital

Event or a sale of all or any substantial part of the assets of the Partnership occurs, the General Partner shall send to the Administrative Limited Partner a report as to the nature of the Capital Event or sale and as to the Net Proceeds arising from the Capital Event or sale.

- S. The following name and address of the Administrative Limited Partner are hereby added to Section 14.02 of the Restated Agreement:

Wheat Ridge Housing Authority
7500 West 29th Avenue
Wheatridge, CO 80033

- T. The following language is added to Section 14.03 of the Restated Agreement as the final sentence of such Section: “Notwithstanding the foregoing, the Administrative Limited Partner’s execution of such written instrument or instruments shall only be necessary in connection with (i) any amendment, revision, waiver, discharge, release or termination that impacts the rights, privileges and obligations of the Administrative Limited Partner under the Agreement, and (ii) any documentation or resolution relating to the sale of the Project.

- U. In no event shall the terms of Section 14.11 apply to the admission of the Administrative Limited Partner.

- V. The following new Section 14.15 is hereby added to the Restated Agreement:

“Section 14.15. In the event that Section 29-4-227 of the Colorado Revised Statutes is revised such that the tax exemptions therein described as in effect on the date of this Agreement are no longer available to the Partnership, the same shall constitute an “Administrative Limited Partner Withdrawal Event,” and the Administrative Limited Partner shall, for the sum of (a) all accrued and unpaid ALP Compliance Management Fee, if any, and (b) Ten Dollars (\$10.00), withdraw as a Limited Partner of the Partnership within thirty (30) days after such determination.”

- W. Exhibit I of the Restated Agreement is hereby deleted in its entirety and replaced with Exhibit I attached hereto.

III. Miscellaneous Operative Provisions of this Amendment

- A. Continued Program Compliance. The General Partner shall provide the Administrative Limited Partner a copy of the LIHTC Owner Certification of Continuing Program Compliance that is completed and submitted to the Agency on an annual basis.
- B. Counterparts. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original document, but

all of which counterparts shall together constitute one and the same instrument.

- C. Cost and Expenses of Amendment. The General Partner shall promptly pay the Administrative Limited Partner's and the Investor Limited Partner's reasonable costs and expenses, including, without limitation, the Administrative Limited Partner's and the Investor Limited Partner's reasonable legal fees, associated and in connection with the negotiation, admission of the Administrative Limited Partner to the Partnership and the withdrawal of the Administrative Limited Partner pursuant to Section 14.15 in accordance with the Restated Agreement.
- D. Affirmation of the Restated Agreement. Except as modified hereby or as required to be consistent herewith, the Agreement and its terms and provisions are hereby ratified and confirmed for all purposes and in all respects.
- E. Future Cooperation. Each of the parties hereto agrees to cooperate at all times from and after the Effective Date with respect to all of the matters described herein, and to provide any tax return for the Partnership or execute further assignments, releases, assumptions, notifications and other documents as may be reasonably requested for the purpose of giving effect to, or evidencing or giving notice of, the transactions contemplated by this Amendment.
- F. Governing Law and Venue. It is the intention of the parties hereto that all questions with respect to the construction, enforcement, and interpretation of this Amendment and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the State of Colorado without regard to principles of conflicts of laws. The parties agree and consent that venue for purposes of resolving any dispute or controversy relating to this Amendment shall be Charlotte, North Carolina.
- G. Ratification. Except as otherwise specifically provided herein, all other terms and conditions of the Restated Agreement shall remain in full force and effect and are hereby ratified and confirmed in all respects by the parties hereto.
- H. Separability. This Amendment is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Amendment or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Amendment and the applications of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law. In the event that any provision of this Amendment or the application thereof shall be held invalid or unenforceable by a final judgment of a court of competent jurisdiction, the parties agree to negotiate (on a reasonable basis) a substitute valid or enforceable provision providing for substantially the same effect as the invalid or unenforceable provision.
- I. Successors and Assigns. Once executed by all parties hereto, this Amendment and all jointers attached hereto, shall be binding upon, and inure to the benefit of, the

parties hereto and their respective spouses, heirs, executors and administrators, personal and legal representatives, successors and assigns.

- J. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AFTER OPPORTUNITY FOR CONSULTATION WITH INDEPENDENT COUNSEL, WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR OBLIGATIONS (A) UNDER THIS AMENDMENT, (B) ARISING FROM THE FINANCIAL RELATIONSHIP BETWEEN THE PARTIES EXISTING IN CONNECTION WITH THIS AMENDMENT OR ANY OTHER DOCUMENT OR (C) ARISING FROM ANY COURSE OF DEALING, COURSE OF CONDUCT, STATEMENT (VERBAL OR WRITTEN) OR ACTION OF THE PARTIES IN CONNECTION WITH SUCH FINANCIAL RELATIONSHIP. NO PARTY HERETO WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NO PARTY HERETO HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. THIS PARAGRAPH IS A MATERIAL INDUCEMENT FOR THE WITHDRAWING INVESTOR LIMITED PARTNER TO ENTER INTO THIS AMENDMENT.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties have affixed their signatures and seals to this Second Amendment to Amended and Restated Agreement of Limited Partnership of Town Center North Apartments, LLLP as of the date first written above.

GENERAL PARTNER:

WAZEE PARTNERS, TCNA, LLC,
a Colorado limited liability company

By: _____

Name: Christopher F. Downs

Title: Manager

INVESTOR LIMITED PARTNER:

WELLS FARGO AFFORDABLE HOUSING
COMMUNITY DEVELOPMENT CORPORATION, a
North Carolina corporation

By: _____

Name: Jason Brow

Title: Vice President/ Senior Asset Manager

ADMINISTRATIVE LIMITED PARTNER:

WHEAT RIDGE HOUSING AUTHORITY,
a Colorado public housing authority

By: _____

Name: _____

Title: _____

[EXECUTION PAGE OF SECOND AMENDMENT TO
AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF
TOWN CENTER NORTH APARTMENTS, LLLP]

REAFFIRMATION OF GUARANTY

By their signature below, each of the undersigned hereby agrees and confirms to the Investor Limited Partner that, notwithstanding this Amendment (i) it or he continues to guaranty certain obligations of the General Partner under the Restated Agreement, as amended hereby, (ii) that certain Guaranty dated as of December 10, 2014 (the “**Guaranty**”) is and shall remain in full force and effect and (iii) the Guaranty is hereby ratified and confirmed in all respects.

CHRISTOPHER F. DOWNS, an individual

TYLER H. DOWNS, an individual

EXHIBIT I

TO
SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT OF LIMITED
PARTNERSHIP OF TOWN CENTER NORTH APARTMENTS, LLLP

**EXHIBIT I
PARTNERSHIP INTERESTS**

<u>Partner and Address</u>	<u>Capital Contribution</u>	<u>Interest</u>
General Partner		
Wazee Partners, TCNA, LLC 2300 15th Street, Suite 325 Denver, CO 80202	\$100	0.005%
Investor Limited Partner		
Wells Fargo Affordable Housing Community Development Corporation 301 South College Street, TW-17 Charlotte, NC 28288-0173	\$9,869,482*	99.99%
Administrative Limited Partner		
Wheat Ridge Housing Authority 7500 West 29th Avenue Wheat Ridge, CO 80033	\$100	0.005%

*Subject to all of the terms and conditions of this Agreement, including, without limitation, those set forth in Section 3.03, Section 3.05, Exhibit A, and the Schedules thereto

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COMPLIANCE MANAGEMENT FEE AGREEMENT

THIS COMPLIANCE MANAGEMENT FEE AGREEMENT (this “*Agreement*”) is hereby made and entered into effective as of January 1, 2020 by and between **TOWN CENTER NORTH APARTMENTS, LLLP**, a Colorado limited liability limited partnership (the “*Partnership*”) and **WHEAT RIDGE HOUSING AUTHORITY**, a Colorado public housing authority (the “*Administrative Limited Partner*”).

WITNESSETH:

WHEREAS, the Partnership is governed by that certain Amended and Restated Limited Partnership Agreement dated as of December 16, 2014, as amended by that certain First Amendment to Amended and Restated Limited Partnership Agreement dated as of September 13, 2016, and as further amended by that certain Second Amendment to Amended and Restated Agreement of Limited Partnership dated as of the date hereof (collectively, the “*Partnership Agreement*”). Capitalized terms used and not otherwise defined herein shall have the definitions given them in the Partnership Agreement.

WHEREAS, pursuant to the Partnership Agreement, the Administrative Limited Partner has been or will be admitted as a limited partner in the Partnership (the “*Admission*”);

WHEREAS, in connection with the Admission, the Partnership has engaged the services of the Administrative Limited Partner as specifically described below (the “*Compliance Management Services*”); and

WHEREAS, by reason of the Administrative Limited Partner’s status as a Limited Partner of the Partnership for all purposes pursuant to Sections 8.01 through 8.05 of the Partnership Agreement, inclusive, certain property owned by the Partnership may be exempt from state, local and municipal taxes, including administrative assessments and ad valorem real property taxes, under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b).

AGREEMENT:

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

I. Basis of Agreement and Engagement; Compliance Management Fee.

- a. Basis of Agreement. Commencing on the date hereof, as an independent contractor of the Partnership, the Administrative Limited Partner will, upon reasonable request of the Partnership, provide the Compliance Management

Services.

- b. Compliance Management Services. The Compliance Management Services shall be comprised solely of the following services:
- i. The Administrative Limited Partner shall receive and review reports as may be provided from time to time by third parties, including but not limited to the Colorado Housing and Finance Authority (“CHFA”), where such reports contain information regarding the Partnership’s ongoing compliance with the affordable housing set-aside requirements for the Project (as set forth in the Partnership Agreement or in any agreements between the Partnership and CHFA or any other governmental authority). Upon the Administrative Limited Partner’s review of these reports, if such reports indicate that the Partnership has not complied with such affordable housing set-aside requirements, and as consistent with its mission to support the ongoing provision of affordable housing in and around the City of Wheat Ridge, Colorado, the Administrative Limited Partner may take those steps as are permitted to the Administrative Limited Partner under the Partnership Agreement to correct or otherwise address such non-compliance.
 - ii. The Administrative Limited Partner shall receive and review reports and information as may be provided from time to time by third parties, including but not limited to Jefferson County, Colorado, regarding the availability and sufficiency of affordable housing in and around the City of Wheat Ridge, Colorado. Upon receiving and reviewing such reports, the Administrative Limited Partner shall convey such reports and information to the Partnership along with any analysis that the Administrative Limited Partner chooses to provide regarding the ongoing role of the Project in addressing affordable housing needs in and around the City of Wheat Ridge.
- c. ALP Compliance Management Fee. In connection with any calendar year where the Partnership receives any of the anticipated benefits under C.R.S. §§ 29-4-226(1)(d) and 29-4-227(b) described above as a result of the Administrative Limited Partner’s status as a Limited Partner of the Partnership, and also in consideration of the Administrative Limited Partner’s agreement to provide the Compliance Management Services described herein during such calendar year, the Partnership shall pay to the Administrative Limited Partner an annual cumulative fee (the “ALP Compliance Management Fee”). Subject to the terms hereof and Article IV of the Partnership Agreement, the ALP Compliance Management Fee shall be payable on or before January 30 following the close of any such calendar year. The ALP Compliance Management Fee shall be \$10,000, subject to proration based on the portion of the calendar year during which the Administrative

Limited Partner is a Limited Partner of the Partnership. Beginning with the calendar year 2021, and for each successive calendar year thereafter, the ALP Compliance Management Fee payable in connection with such calendar year shall increase by 3%. The ALP Compliance Management Fee is payable in arrears to the extent of available Cash Flow or Net Proceeds as defined in Article IV of the Partnership Agreement. To the extent there is insufficient Cash Flow or Net Proceeds in any calendar year to compensate the Administrative Limited Partner in any year, the ALP Compliance Management Fee shall accrue and be paid out of available Cash Flow or Net Proceeds, as applicable.

- d. Independent Contractor. The parties hereto do not intend this Agreement to create a partnership or any similar association for any purpose. The Administrative Limited Partner shall at all times and in all circumstances be considered an independent contractor.
- e. Withdrawal of Administrative Limited Partner. Pursuant to Section 9.03 of the Partnership Agreement, the Administrative Limited Partner may, in its sole discretion, withdraw as a Limited Partner of the Partnership beginning in the final year of the Compliance Period. If the Administrative Limited Partner so withdraws as a Limited Partnership under Section 9.03 of the Partnership Agreement, the ALP Compliance Management Fee payable for the calendar year in which the Administrative Limited Partner withdraws as a Limited Partner of the Partnership shall be subject to proration based on the portion of such calendar year during which the Administrative Limited Partner remained a Limited Partner of the Partnership.

II. Miscellaneous.

- a. Binding Effect. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.
- b. Entire Agreement. This Agreement and the exhibits attached hereto embody the entire agreement between the parties and supersede all prior and contemporaneous agreements, representations and undertakings regarding the subject matter hereof.
- c. Amendments and Assignments. This Agreement shall not be amended or modified in any respect or assigned by any party without the prior written consent of each Partner of the Partnership.
- d. Headings. The subject headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation hereof.

- e. Arbitration of Disputes and Waiver of Jury Trial. The parties hereto agree that the provisions of Section 14.13 of the Partnership Agreement are incorporated herein by reference and shall apply to the parties hereto and to this Agreement as though fully set forth herein.
- f. Notices. All notices or other communications required or permitted to be given pursuant to this Agreement must be in writing, shall be delivered via overnight courier, and shall be deemed delivered upon receipt. For purposes of notices, the addresses of the Parties are as set forth in the Partnership Agreement. Any party has the right to change its address for notice hereunder to any other location within the continental United States by giving notice to the other party of such new address at least (30) days prior to the effective date of such new address.
- g. Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original and all of which together constitute one and the same agreement.
- h. Applicable Law. **THIS AGREEMENT AND ALL THE EXHIBITS HERETO WILL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.**
- i. Severability. In case any one or more of the provisions contained in this Agreement for any reason are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- j. Time of Essence. Time is of the essence of this Agreement.
- k. Attorneys' Fees. Should any party employ an attorney or attorneys to enforce any of the provisions hereof, to protect its interest in any manner arising under this Agreement, or to recover damages for the breach of this Agreement, the non-prevailing party in any action pursued in courts of competent jurisdiction (the finality of which is not legally contested) agrees to pay to the prevailing party all reasonable costs, damages and expenses, including specifically, but without implied limitation, attorneys' fees, expended or incurred by the prevailing party in connection therewith.
- l. Facsimile and Original Signatures. This Agreement may be executed as facsimile originals and each copy of this Agreement bearing the facsimile transmitted signature of any party's authorized representative shall be deemed to be an original.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE TO
COMPLIANCE MANAGEMENT FEE AGREEMENT
Town Center North Apartments, LLLP

IN WITNESS WHEREOF, the undersigned have executed this Agreement in one or more counterparts, each of which shall be deemed an original and all of which together will constitute one and the same instrument, effective as of the date first above written.

PARTNERSHIP:

TOWN CENTER NORTH APARTMENTS, LLLP, a
Colorado limited liability limited partnership

By: Wazee Partners, TCNA, LLC, a Colorado limited
liability company, its General Partner

By:

Christopher F. Downs, Manager

SIGNATURE PAGE TO
PARTICIPATION FEE AGREEMENT
Town Center North Apartments, LLLP

ADMINISTRATIVE LIMITED PARTNER:

WHEAT RIDGE HOUSING AUTHORITY ,
a Colorado public housing authority

By: _____
Name:
Title:



To: Chair and Members of the Wheat Ridge Housing Authority

From: Lauren Mikulak, WRHA Staff Liaison

Subject: Annual Designation of Meeting Notice Location

Date: August 5, 2020 (for August 11 meeting)

In accordance with the Colorado Open Meetings Laws (Section 24-6-401 *et seq.* C.R.S.), all local public bodies, including the Wheat Ridge Housing Authority, are required to annually designate the place for posting public notices for public hearings. The City’s lobby and website are the designated locations. Because City Hall has limited availability for the public, a new posting location outside of the City Hall west entry has also been added.

This designation is formally made at the board’s first meeting of each year through approval of a resolution.

Staff recommends approval of Resolution No. 01-2020 and recommends the following motion:

“I move to recommend approval of Resolution No. 01-2020, a resolution establishing a designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law.”

WHEAT RIDGE HOUSING AUTHORITY
RESOLUTION NO. 01
Series of 2020

TITLE: A RESOLUTION ESTABLISHING A DESIGNATED PUBLIC PLACE FOR THE POSTING OF MEETING NOTICES AS REQUIRED BY THE COLORADO OPEN MEETINGS LAW

WHEREAS, the Housing Authority of the City of Wheat Ridge, Colorado, deems it in the public interest to provide full and timely notice of all of its meetings; and

WHEREAS, the Colorado state legislature amended the Colorado Open Meetings Laws, Section 24-6-401, *et seq.*, C.R.S. to require all “local public bodies” subject to the requirements of the law to annually designate at the local public body’s first regular meeting of each calendar year, the place for posting notices of public hearings no less than twenty-four hours prior to the holding of the meeting; and

WHEREAS, “local public body” is defined by Section 24-6-402(1)(a) to include “any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body”.

NOW, THEREFORE, BE IT RESOLVED by the Wheat Ridge Housing Authority as follows:

Section 1. The lobby of the Municipal Building and the City’s website shall constitute the designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law. When the Municipal Building is closed to the public—as has been the case during the COVID-19 pandemic—the exterior posting board on the west side of the Municipal Building entry shall be the designated public place for the posting of meeting notice in lieu of the lobby.

Section 2. The Community Development Director or his designee shall be responsible for posting the required notices no later than twenty-four (24) hours prior to the holding of the meeting.

Section 3. All meeting notices shall include specific agenda information, where possible.

ADOPTED this _____ day of _____, 2020.

Chair, Housing Authority

ATTEST:

Secretary to the Housing Authority



To: Chair and Members of Wheat Ridge Housing Authority
From: Lauren Mikulak, WRHA Staff Liaison
Subject: 2020 Budget
Date: August 5, 2020 (for August 11 meeting)

Attached for review is the 2020 budget for the Wheat Ridge Housing Authority. Consistent with direction given at the February 6, 2018 meeting, the Authority is operating at minimal activity levels and has reduced scheduled meetings to one per year or as needed. The budget for 2020 reflects that reduced activity level.

The enclosed budget reflects the minimum possible operating expenses, including only the following:

- 762 · Bank Charges – \$275 – This covers the monthly fees associated with the Authority’s bank accounts.

Historically, the WRHA budget has included funds in account 750 (Accounting and Legal) for assistance with the State required audit. The Authority is eligible for an audit exemption, and the City’s Finance Manager has been completing the associated paperwork at no cost to the Authority. Likewise, the Authority budget has historically included funds in account 771 (City Reimbursement) to reimburse the City for the hours worked by the staff liaison and secretary in the prior year. The reduced operations by the Authority have made the reimbursement quite nominal, and the City Manager has confirmed reimbursement is not necessary at this time.

Staff recommends the following motion:

“I move to approve Resolution No. 02, a resolution enacting a budget and appropriation for the year 2020.”

Or, if revisions to the budget are desired:

“I move to approve Resolution No. 02, a resolution enacting a budget and appropriation for the year 2020, with the following amendments to the budget:

- 1.
2. ...

Wheat Ridge Housing Authority Proposed Budget

2020

	Actual 2018	Unaudited Actual 2019	2019 Budget	Proposed 2020 Budget
Ordinary Income/Expense				
Income				
535 - Interest Income	20,085	20,119	20,075	20,150
Total Income	<u>20,085</u>	<u>20,119</u>	<u>20,075</u>	<u>20,150</u>
Gross Profit	20,085	20,119	20,075	20,150
Expense				
750 - Accounting & Legal	3,000	0	1,000	0
762 - Bank Charges	263	263	250	275
771 - City Reimbursement	2,803	0	500	0
Total Expense	<u>6,066</u>	<u>263</u>	<u>1,750</u>	<u>275</u>
Net Ordinary Income	<u>14,019</u>	<u>19,856</u>	<u>18,325</u>	<u>19,875</u>
Total Other Expense	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Other Income/Expense	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Income	<u>14,019</u>	<u>19,856</u>	<u>18,325</u>	<u>19,875</u>
Beginning Fund Balance	<u>602,852</u>	<u>616,871</u>	<u>616,871</u>	<u>636,727</u>
Ending Fund Balance	<u>616,871</u>	<u>636,727</u>	<u>635,196</u>	<u>656,602</u>
Restricted Fund - Fruitdale		<u>570,000</u>	<u>570,000</u>	<u>570,000</u>
Unrestricted Fund		<u>66,727</u>	<u>65,196</u>	<u>86,602</u>
Ending Fund Balance		<u>636,727</u>	<u>635,196</u>	<u>656,602</u>

**WHEAT RIDGE HOUSING AUTHORITY
RESOLUTION NO. 02
Series of 2020**

**TITLE: A RESOLUTION ENACTING A BUDGET AND
APPROPRIATION FOR THE YEAR 2020**

WHEREAS, C.R.S. 29-1-103 (1) of the Local Government Budget Law of Colorado requires certain local governmental entities to prepare and adopt an annual budget; and

WHEREAS, the City Attorney has opined that the provisions of the Budget Law apply to the Authority; and

WHEREAS, notice of adoption of this 2020 budget and appropriation was given by the Housing Authority in compliance with C.R.S. 29-1-106; and

WHEREAS, in compliance with the provisions of the Budget Law regarding notice, objections, and hearing, a public hearing was held on this Budget and Appropriation for 2020 by the Authority on August 11, 2020.

NOW, THEREFORE, BE IT RESOLVED by the Wheat Ridge Housing Authority as follows:

Section 1. The year 2020 budget as shown on **Exhibit 1** attached hereto is hereby approved.

Section 2. Total expenditures of the Authority do not exceed available revenues and beginning fund balance.

Section 3. A certified copy of this resolution shall be filed with the Division of Local Government.

ADOPTED this _____ day of _____, 2020.

Chair, Housing Authority

ATTEST:

Secretary to the Authority

