

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this “Agreement”) is by and between The County of Lake, Illinois, a unit of local government and body politic and corporate duly organized and validly existing under the Constitution and laws of the State of Illinois (“Issuer”), and Hebron Townhouse Apartments, LP, an Illinois limited partnership (“Borrower”).

1. Preliminary Statement. Among the matters of mutual inducement that have resulted in this Agreement are the following:

(a) The Issuer is a duly organized and existing unit of local government within the meaning of Section 1 of Article VII of the 1970 Constitution of the State of Illinois and a body politic and corporate operating under the general laws of the State of Illinois. The Issuer is not a home rule unit of local government. The Issuer is authorized under the Industrial Building Revenue Bond Act, 50 ILCS 445/1 *et seq.* (“Bond Act”), to issue its revenue bonds to finance, in whole or in part, the cost of the construction, rebuilding, acquisition, improvement, or extension of any “industrial project,” as defined in Section 2 of the Bond Act.

(b) The Borrower wishes to secure financing for the construction, rebuilding, acquisition, improvement, and extension of an industrial project consisting of a 63-unit multifamily housing development known as Hebron Townhouse Apartments, located in Zion, Illinois, within the County (“Project”), to be owned by the Borrower in order to provide enhanced employment opportunities within the County and to provide adequate, decent, safe and sanitary affordable housing to those residing in the Project, and the Borrower has requested the Issuer issue in one or more issues and series its revenue bonds to provide funds for the construction, rebuilding, acquisition, improvement, and extension of the Project (“Revenue Bonds”). The Project constitutes an “industrial project” as defined in Section 2 of the Bond Act.

(c) The estimated cost of the Project is not more than \$10,000,000.

(d) The Issuer has determined that (i) the lack of employment opportunities as well as adequate, decent, safe and sanitary affordable housing within the County is harmful to the public health, safety, and general welfare of the Issuer and its inhabitants and (ii) based upon information supplied by the Borrower, assisting the Borrower through the issuance of the Revenue Bonds, the proceeds of which shall be loaned to the Borrower and used to finance all or a portion of the cost of the Project, will provide increased employment opportunities and increased adequate, decent, safe and sanitary affordable housing within the County.

(e) The Revenue Bonds shall be limited obligations of the Issuer payable solely out of the proceeds of the sale of the Revenue Bonds, investment earnings on such proceeds, and from the revenues and receipts derived with respect to the Project. No holder of any of the Revenue Bonds shall have the right to compel any exercise of the taxing power of the Issuer, the State of Illinois, or any political subdivision of the State to pay the Revenue Bonds or the interest or any premium thereon, and the Revenue Bonds and the interest thereon shall not constitute an indebtedness or a loan of credit of the Issuer, the State of Illinois, or any political subdivision of the State.

(f) Subject to (i) the conditions set forth in this Agreement and in the Resolution of the County Board of the County approving this Agreement (“Resolution”); (ii) compliance with all applicable present and future requirements of law; (iii) the availability to the Issuer of sufficient private activity bond volume cap pursuant to Section 146 of the Internal Revenue Code of 1986, as amended (“Code”), and the Illinois Private Activity Bond Allocation Act, 30 ILCS 345/1 *et seq.* (“Bond Allocation Act”); (iv) public approval as required by Section 147(f) of the Code; (v) agreement by the Issuer and the Borrower upon mutually acceptable terms for the Revenue Bonds and upon mutually acceptable forms of all contracts, agreements, and proceedings related to the Revenue Bonds; and (vi) receipt of adequate assurance from the Borrower that there are one or more purchasers for the Revenue Bonds, the Issuer, by virtue of such authority as may now or hereafter be conferred, shall issue and sell the Revenue Bonds in one or more issues and series, in a maximum aggregate principal amount not to exceed \$10,000,000, to finance all or a portion of the costs of the Project. The exact amount of the Revenue Bonds shall be fixed by a duly adopted resolution or ordinance of the County Board of the County at a later date and agreed to by the Borrower, but in no event shall such amount exceed the cost of the Project, including expenses incidental thereto, as estimated at the time of issuance of the Revenue Bonds.

2. *Undertakings on the Part of the Issuer.* Subject to the conditions stated in this Agreement and in the Resolution, the Issuer agrees as follows:

(a) The Issuer shall authorize the issuance and sale of the Revenue Bonds in one or more issues and series pursuant to the terms of the Bond Act and the Bond Allocation Act, and pursuant to terms mutually acceptable to the Issuer, the Borrower, and to potential purchasers of the Revenue Bonds, and the Issuer shall cooperate with the Borrower in finding a purchaser or purchasers for the Revenue Bonds.

(b) The Issuer shall enter into a loan agreement or other agreements or instruments with the Borrower pursuant to which the Borrower shall pay to, or on behalf of, the Issuer such sums as shall be sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on the Revenue Bonds as and when the same shall become due and payable.

(c) The Issuer shall take such further action and adopt such further proceedings as may be necessary to implement its undertakings required pursuant to this Agreement or as it may deem appropriate in pursuance of those undertakings.

3. *Undertakings on the Part of the Borrower.* Subject to the conditions stated in this Agreement and in the Resolution, the Borrower agrees as follows:

(a) The Borrower shall use all reasonable efforts to find one or more purchasers for the Revenue Bonds.

(b) The Borrower either has entered into or will enter into a contract or contracts for the construction, rebuilding, acquisition, improvement, and extension of the Project.

(c) Contemporaneously with the delivery of the Revenue Bonds, the Borrower shall enter into a loan agreement or other agreements or instruments with the Issuer pursuant to which the Borrower shall obligate itself to pay to, or on behalf of, the Issuer such sums as shall be sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on the Revenue Bonds as and when the same shall become due and payable. The principal of and

interest and redemption premium, if any, on the Revenue Bonds shall be secured by the Borrower by a pledge to a trustee acting under an indenture of trust for the benefit of the holders and owners of the Revenue Bonds, or by a pledge directly to the holders and owners of the Revenue Bonds, of income and revenues derived by the Issuer from the Project pursuant to the aforesaid financing agreements and may be further secured by a security interest in the Project. In the event that a designee of the Borrower, rather than the Borrower, enters into a loan agreement or other agreements or instruments with the Issuer, the Borrower shall guarantee performance of all obligations or instruments with the Issuer, the Borrower shall guarantee performance of all obligations of the designee under any such agreement or instrument.

(d) The Borrower recognizes that additional agreements and instruments to provide additional security for the purchasers and owners of the Revenue Bonds, including a mortgage on the Project or other security devices or credit enhancements, may be necessary or desirable in order to market the Revenue Bonds successfully, and that the Borrower shall execute, or cause to be executed, such instruments, guaranties, and agreements as appropriate and necessary.

(e) The Borrower shall take such further action and adopt such further proceedings as may be necessary to implement its undertakings required pursuant to this Agreement or as it may deem appropriate in pursuance of those undertakings.

4. *General Provisions.*

(a) All commitments of the Issuer under Paragraph 2 of this Agreement and of the Borrower under Paragraph 3 of this Agreement are subject to the condition that on or before December 15, 2017 (or such later date as shall be mutually approved by the County Board of the County, by resolution or ordinance duly adopted, and the Borrower), the Issuer and the Borrower shall have agreed to mutually acceptable terms and conditions of the loan agreement and of the Revenue Bonds and of any other agreements, instruments, and proceedings relating to the Revenue Bonds. The decision not to approve or agree to any term or condition of any document or not to take any action prior to issuance of the Revenue Bonds shall rest solely in the complete discretion of the parties to this Agreement.

(b) The Borrower agrees to pay all legal and other consulting and administrative fees, costs, and expenses in connection with the issuance of the Revenue Bonds and the costs of the Project, including without limitation title charges, group taxes, administrative fees, costs, and expenses of the Issuer, fees, costs, and expenses of counsel to the Issuer and of bond counsel, recording fees, publication fees, and fees, costs, and expenses of financial consultants or underwriters and architects and engineers.

(c) If the events set forth in Subparagraph (a) of this Paragraph 4 do not take place within the time set forth therein or any extension thereof and the Revenue Bonds in an amount approximately equal to the amount stated in Paragraph 1 of this Agreement are not sold within such time, the Borrower (i) acknowledges that fees, costs, and expenses shall have been incurred or accrued by reason of the execution and performance of this Agreement and (ii) agrees that the Borrower shall pay to the Issuer, immediately upon presentation of a written demand or demands therefor, all legal and other consulting and administrative fees, costs, and expenses incurred or accrued in connection with the negotiation, preparation, consideration, and review of this Agreement, the execution of this Agreement, and the performance by the Issuer of its obligations under this Agreement, and all fees, costs, and expenses that the Issuer may incur at the Borrower's

request or as a result of or arising out of this Agreement, including without limitation all fees, costs, and expenses of counsel to the Issuer, and this Agreement shall thereupon terminate.

(d) Except as otherwise provided in Subparagraphs (b), (c), (e) and (f) of this Paragraph 4, in the event that the Revenue Bonds are not issued, sold, or delivered as contemplated herein, there shall be no liability on the part of the Issuer or the Borrower or on the part of any of their respective elected or appointed officers, agents, servants, attorneys, or employees for any such non-issuance, non-acquisition, or non-delivery. The action of the Issuer in executing and delivering this Agreement, in fulfilling its obligations under this Agreement, in issuing or in refusing to issue the Revenue Bonds on behalf of the Borrower, or in taking or omitting or refusing to take any other action whatsoever, shall not result in any pecuniary liability on the part of the Issuer, its elected and appointed officers, agents, servants, attorneys, or employees.

(e) The Borrower shall hold the Issuer, the County Board of the County and its Chairman, and the County's elected and appointed officers, agents, servants, attorneys, and employees, in their respective official and individual capacities, harmless from any costs, injury, claim, suit, judgment, liability, debt, damages, or penalty arising out of or resulting from the execution or performance of this Agreement. The Borrower shall pay, and the Borrower hereby specifically agrees that it shall pay, all fees, costs, and expenses incurred by the Issuer and such persons in defending itself or themselves with regard to all costs, claims, damages, and penalties mentioned above, within 10 days after receipt of Issuer's statement, including without limitation legal and expert fees, costs, and expenses and the reasonable value of any services rendered by any employee of the Issuer.

(f) In the event of a judicial proceeding brought by the Issuer for enforcement or for breach of any provision of this Agreement by the Borrower, the Issuer shall be entitled to reimbursement from the Borrower of all fees, costs, and expenses incurred in connection with successfully enforcing performance or recovering damages for such breach, including without limitation legal fees and administrative expenses.

(g) This Agreement may be executed in multiple counterparts that, when taken as a whole, shall constitute one and the same Agreement. This Agreement may also be executed in multiple identical counterparts and all of said counterparts shall, individually and taken together, constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunto duly authorized as of the ____ day of March, 2017.

THE COUNTY OF LAKE, ILLINOIS

By: _____
Chairman

[SEAL]

Attest:

County Clerk and
ex officio Clerk of the County Board

HEBRON TOWNHOUSE APARTMENTS, LP, an
Illinois limited partnership

By: Hebron Townhouse Apartments GP, LLC, an
Illinois limited liability company, its General
Partner,

By: _____
William C. DeBruler, Manager
Title: _____

Attest:

By: _____

Its: _____

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