

**BOND RESOLUTION
CARRIAGEHOUSE VILLAGE APARTMENTS PROJECT**

A regular meeting of Madison County Industrial Development Agency (the "Issuer") was convened in public session at the offices of the Issuer located at 3215 Seneca Turnpike in the Village of Canastota, Madison County, New York on November 17, 2016 at 3:00 o'clock p.m., local time.

The meeting was called to order by the (Vice) Chairman of the Issuer and, upon roll being called, the following members of the Issuer were:

PRESENT:

Richard Bargabos	Chairman
David Rogers	Vice Chairman
Elizabeth Moran	Secretary
Jack Romagnoli	Treasurer
Steven Potter	Member
Russell Lura	Member
John Salta	Member

ABSENT:

Bargabos, Salta

ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:

Kipp Hicks	Executive Director
Amanda Nicholas	Administrative Assistant
George W. Cregg, Jr., Esq.	Issuer and Bond Counsel

The following resolution was offered by *R. Lura*, seconded by *S. Potter*, to wit:

Resolution No. 1116-__

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE BY MADISON COUNTY INDUSTRIAL DEVELOPMENT AGENCY OF ITS MULTIFAMILY HOUSING REVENUE BOND (CARRIAGEHOUSE VILLAGE APARTMENTS PROJECT), SERIES 2016 IN A PRINCIPAL AMOUNT NOT TO EXCEED THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) AND THE EXECUTION OF VARIOUS DOCUMENTS RELATED THERETO.

WHEREAS, the Issuer is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 305 of the 1975 Laws of New York, as amended, constituting Section 893 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of civic facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity

and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Issuer is authorized and empowered under the Act to issue its revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more "projects" (as defined in the Act), to acquire, construct, reconstruct and install said projects or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Carriagehouse Village Apts., L.P., (also known as Carriage House Village Apartments, Carriage House Village, Carriage Village Apts. or Carriagehouse Village Apts. Baldwin) (the "Company") submitted an application (the "Application") to the Issuer, a copy of which is on file at the office of the Issuer, requesting that the Issuer consider undertaking which Application requested that the Issuer consider undertaking a project (the "Project") for the benefit of the Company or such other person as may be designated by the Company and agreed upon by the Issuer, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 2.74 acre parcel of land located on Carriagehouse Lane currently known as 5 Carriagehouse Circle in the Town and Village of Cazenovia, Madison County, New York (tax map no. 95.54-1-2.1) (the "Land"), together with seven (7) buildings containing in the aggregate approximately 38,000 square feet of space located thereon (collectively, the "Facility") (2) the renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing to constitute a 42-unit senior living apartment complex and other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of revenue bonds of the Issuer in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, said aggregate principal amount presently estimated to be approximately \$2,000,000 and in any event not to exceed \$3,500,000 (the "Obligations"); (C) the payment of a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; (D) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively with the Obligations, the "Financial Assistance"); and (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Issuer; and

WHEREAS, pursuant to the resolution adopted by the members of the Issuer on August 18, 2016 (the "Public Hearing Resolution"), the Executive Director of the Issuer (A) caused notice of public hearing of the Issuer (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and, pursuant to the applicable provisions of Section 859-a and Section 859-b of Act, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Issuer with respect to the Project, to be mailed on August 25, 2016 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) to be posted on August 25, 2016 on a bulletin board in the Village of Cazenovia Village Hall located at 90 Albany Street in the Town and Village of Cazenovia, Madison County, New York, (C) caused notice of the Public Hearing to be published on August 28, 2016 in The Oneida Daily Dispatch, a newspaper of general circulation available to the residents of Town and Village of Cazenovia, Madison County, New York, (D) conducted the Public Hearing on September 12, 2016 at 11:00 a.m., local time in the Village of Cazenovia Village Hall located at 90 Albany Street in the Town and Village of Cazenovia, Madison County, New York, and (E) prepared a report of the Public Hearing (the "Hearing Report")

which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Issuer and the Board of Supervisors of Madison County, New York; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Issuer on September 19, 2016 (the "SEQR Resolution"), the Issuer determined that the Project constituted a "Type II action" (as such term is defined under SEQRA), and therefore that no further action with respect to the Initial Project is required under SEQRA; and

WHEREAS, the Company has requested that the Issuer sell its Multifamily Housing Revenue Bond (Carriagehouse Village Apartments II, L.P. Project), Series 2016 in a principal amount not to exceed \$3,500,000 (the "Bond") to Pathfinder Bank (the "Holder") for the purpose of providing funds to pay a portion of the costs of the Project, together with necessary incidental expenses in connection therewith; and

WHEREAS, the Bond is to be issued under this resolution (the "Bond Resolution"), a bond purchase and building loan agreement dated as of December 1, 2016 (the "Bond Purchase Agreement") by and among the Issuer, the Company, and the Holder, and according to the terms of a commitment letter issued by the Holder dated September 1, 2016, as amended by an amendment executed by the Holder on November 15, 2016 (the "Holder Commitment"), which Holder Commitment is attached hereto as **Schedule A**; and

WHEREAS, prior to or simultaneously with the issuance of the Bond, (A) the Company and the Issuer will execute and deliver a certain lease agreement (the "Underlying Lease"), pursuant to which the Company has agreed to sublease the Land to the Issuer, (B) the Company will execute and deliver (1) a certain license agreement dated as of December 1, 2016 (the "License to Issuer") by and between the Company, as licensor, and the Issuer, as licensee, pursuant to which the Company will grant to the Issuer a license to enter upon the Land for the purpose of undertaking and completing the Project and, in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Land for the purpose of pursuing its remedies under the Installment Sale Agreement (as hereinafter defined), and (2) a bill of sale dated as of December 1, 2016 (the "Bill of Sale to Issuer") from the Company to the Issuer, pursuant to which the Company will convey to the Issuer the Company's interest in the portion of the Project Facility constituting fixtures and other personal property, and (C) the Issuer will execute and deliver (1) an installment sale agreement dated as of December 1, 2016 (the "Installment Sale Agreement") by and between the Issuer and the Company and (2) certain other documents related to the Project and to the Bond (collectively with the Holder Commitment and the Installment Sale Agreement, the "Financing Documents"); and

WHEREAS, pursuant to the terms of the Installment Sale Agreement, (A) the Company will agree (1) to cause the Project Facility to be acquired, reconstructed and installed, (2) as agent of the Issuer, to undertake the acquisition, reconstruction and installation of the Project Facility, (3) to purchase the Project Facility from the Issuer, and (4) to make certain installment purchase payments to or upon the order of the Issuer as the purchase price for the Project Facility, which installment purchase payments shall include amounts equal to the debt service payments due on the Bond, and (B) the Issuer will agree to (1) undertake the Project, (2) appoint the Company as agent of the Issuer to acquire, reconstruct and install the Project Facility, and (3) sell the Project Facility to the Company; and

WHEREAS, as security for the Bond, the Issuer will execute and deliver to the Holder a pledge and assignment dated as of December 1, 2016 (the "Pledge and Assignment") from the Issuer to the

Holder, which Pledge and Assignment will assign to the Holder certain of the Issuer's rights under the Installment Sale Agreement; and

WHEREAS, pursuant to the Pledge and Assignment, installment purchase payments made by the Company under the Installment Sale Agreement are to be paid directly to the Holder; and

WHEREAS, to further secure the Bond, the Company and the Issuer will execute and deliver to the Holder (A) a mortgage dated as of December 1, 2016 (the "Mortgage") which grants to the Holder a mortgage lien on and security interest in the Project Facility, and (B) an assignment of leases and rents dated as of December 1, 2016 (the "Assignment of Rents") which assigns to the Holder all leases affecting the Project Facility and the rents payable thereunder; and

WHEREAS, the Company's obligations under the Installment Sale Agreement will be further secured by a guaranty dated as of December 1, 2016 (the "Guaranty") from the Company to the Holder; and

WHEREAS, the Issuer was awarded an allocation of private activity bond volume cap in the amount of \$2,000,000 for calendar year 2016 ("Volume Cap") and intends to use the Volume Cap to support the issuance of the Bond; and

WHEREAS, to demonstrate compliance with the provisions of the Code relating to the issuance of tax-exempt obligations, (A) the Issuer will (1) execute an arbitrage certificate dated the date of delivery of the Bond (the "Arbitrage Certificate") relating to certain requirements set forth in Section 148 of the Code relating to the Bond, (2) execute a completed Internal Revenue Service Form 8038 (Information Return for Private Activity Bonds) relating to the Bond (the "Information Return") pursuant to Section 149(e) of the Code, and (3), upon receipt from NYSED of the certification required by Section 149(e)(2)(F) of the Code (the "Volume Cap Certificate"), file the Information Return with the Internal Revenue Service (the "IRS"), (B) the Company will execute (1) a land use restriction agreement dated as of December 1, 2016 (the "Land Use Restriction Agreement") relating to the requirements in Sections 142 of the Code, and (2) a tax regulatory agreement dated the Closing Date (the "Tax Regulatory Agreement") relating to the requirements in Sections 142, 146, 147, 148 and 149 of the Code, and (C) the Holder will execute a letter (the "Issue Price Letter") confirming the issue price of the Bond on the Closing Date for purposes of Section 148 of the Code; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF MADISON COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Issuer hereby finds and determines that:

(A) By virtue of the Act, the Issuer has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Project constitutes a "project," as such term is defined in the Act; and

(C) The undertaking and completion of the Project Facility and the sale of the Project Facility on an installment basis to the Company will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Madison County, New York and the State of New York and improve their standard of living; and

(D) It is desirable and in the public interest for the Issuer to issue and sell its Bond in a principal amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000) upon the terms and conditions set forth in the Holder Commitment for the purpose of financing a portion of the costs of the undertaking and completion of the Project, together with necessary incidental expenses in connection therewith.

Section 2. In consequence of the foregoing, the Issuer hereby determines to (A) subject to Section 6 hereof, issue the Bond on the terms and conditions set forth in the Holder Commitment, (B) sell the Bond to the Holder pursuant to the Holder Commitment, (C) use the proceeds of the Bond to pay a portion of the costs of issuance of the Bond and a portion of the costs of the acquisition, reconstruction and installation of the Project Facility, (D) acquire an interest in the Project Facility by execution of the Underlying Lease, (E) sell the Project Facility on an installment basis to the Company pursuant to the Installment Sale Agreement, (F) secure the Bond by assigning to the Holder pursuant to the Pledge and Assignment certain of the Issuer's rights under the Installment Sale Agreement (except the Unassigned Rights, as defined therein), including the right to collect and receive amounts payable thereunder (except for amounts payable pursuant to the Unassigned Rights), (G) further secure the Bond by granting to the Holder a mortgage lien on and security interest in the Project Facility pursuant to the Mortgage, (H) further secure the Bond by assigning to the Holder its interest in any leases relating to the Project Facility pursuant to the Assignment of Rents, (I) execute the Arbitrage Certificate and the Information Return with respect to the Bond, (J) allocate the full amount of the Issuer's Volume Cap to the Bond, and (K) file the Information Return with the IRS.

Section 3. The Issuer is hereby authorized to acquire an interest in the real and personal property described in the Underlying Lease, the License to Issuer and the Bill of Sale to Issuer (collectively, the "Conveyance Documents"), and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Issuer with respect to such acquisition and grant are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Conveyance Documents, the Bond, the Holder Commitment, the Installment Sale Agreement, the Mortgage, the Assignment of Rents, the Pledge and Assignment, the Bond Purchase Agreement, the Arbitrage Certificate and the Information Return (collectively, the "Issuer Documents") are hereby approved.

Section 5. The Issuer hereby elects to allocate the full amount of the Issuer's Volume Cap for calendar year 2016 to the Bond.

Section 6. The Issuer is hereby authorized to issue, execute, sell and deliver to the Holder its Bond in a principal amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000) in the form heretofore approved in Section 4 of this Resolution upon compliance with the provisions of the Holder Commitment, provided that:

(A) The Bond authorized to be issued, executed, sold and delivered pursuant to this Section 7 shall (1) be issued, executed and delivered at such time as the Chairman (or Vice Chairman) of the Issuer shall determine, and (2) bear interest at the rate or rates, be issued in such form, be subject to redemption prior to maturity and have such other terms and provisions and be issued in such manner and on such conditions as are set forth in the Bond, in the Holder Commitment attached hereto as **Schedule A** or as hereinafter approved by the Chairman (or Vice Chairman) of the Issuer, which terms are specifically incorporated herein by reference with the same force and effect as if fully set forth in this Resolution.

(B) The Bond shall be issued solely for the purpose of providing funds to finance a portion of the costs of the undertaking and completion of the Project and a portion of the administrative, legal, financial and other expenses of the Issuer in connection with the undertaking and completion of the Project Facility and incidental to the issuance of the Bond.

(C) Neither the members nor officers of the Issuer, nor any person executing the Bond or any of the Financing Documents (as hereinafter defined) on behalf of the Issuer, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Bond and the interest thereon are not and shall never be a debt of the State of New York, Madison County, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, Madison County, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(D) The Bond, together with interest payable thereon, shall be a special obligation of the Issuer payable solely from certain of the revenues and receipts derived from the sale or other disposition of the Project Facility or from the enforcement of the security provided by the Financing Documents (as hereinafter defined) and the Guaranty and the other security pledged to the payment thereof.

(E) Notwithstanding any other provision of this Resolution, the Issuer covenants that it will make no use of the proceeds of the Bond or of any other funds (other than the Issuer's administrative fee) which, if such use had been reasonably expected on the date of issuance of the Bond, would have caused any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code.

Section 7. (A) The Chairman (or Vice Chairman) of the Issuer is hereby authorized, on behalf of the Issuer, to execute and deliver the Issuer Documents and the other documents related thereto (collectively with the Issuer Documents, the "Financing Documents"), and, where appropriate, the Secretary (or Assistant Secretary) of the Issuer is hereby authorized to affix the seal of the Issuer thereto and to attest the same, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Issuer is hereby further authorized, on behalf of the Issuer, to designate any additional Authorized Representatives of the Issuer (as defined in and pursuant to the Installment Sale Agreement).

Section 8. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Financing Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Financing Documents binding upon the Issuer.

Section 9. This Bond Resolution shall take effect immediately and the Bond is hereby ordered to be issued in accordance with this Bond Resolution.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Richard Bargabos	VOTING	<u>Absent</u>
David Rogers	VOTING	<u>yes</u>
Elizabeth Moran	VOTING	<u>yes</u>
Jack Romagnoli	VOTING	<u>yes</u>
Steven Potter	VOTING	<u>yes</u>
Russell Lura	VOTING	<u>yes</u>
John Salka	VOTING	<u>Absent</u>

The foregoing Resolution was thereupon declared duly adopted.


STATE OF NEW YORK)
) SS.:
COUNTY OF MADISON)

I, the undersigned (~~Assistant~~) Secretary of Madison County Industrial Development Agency (the "Issuer"), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the meeting of the Issuer, including the resolution contained therein, held on November 17, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Issuer and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Issuer had due notice of said meeting, (B) said meeting was in all respects duly held, (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and public notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law and (D) there was a quorum of the members of the Issuer present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this 17th day of November, 2016.


~~(Assistant)~~ Secretary

(SEAL)

SCHEDULE A

TERMS OF THE BONDS

- SEE ATTACHED HOLDER COMMITMENT -

214 West First Street
Oswego, NY 13126
Phone 315-343-0057 Fax 315-343-7216



AMENDMENT

The Commitment Letter dated September 1, 2016, issued by Pathfinder Bank to Carriage House Village Apartments, L.P. is amended as follows:

Section 1.6: Interest Rate

- (a) **Option #1:** A fixed rate of 3.75% for the first three years of the Loan, adjusting thereafter to the Federal Home Loan Bank of New York Three-Year Advance Rate plus a margin of 275 basis points. The interest rate shall be re-priced every three years.
- (b) **Option #2:** A fixed rate of 3.875% for the first five years of the Loan, adjusting thereafter to the Federal Home Loan Bank of New York Five-Year Advance Rate plus a margin of 275 basis points. The interest rate shall be re-priced every five years.

Except as provided in this amendment, all other provisions of the commitment letter dated September 1, 2016 remains unaltered by this amendment.

The undersigned acknowledges that they have read and understood the amendments stated above, and agree to accept the changes.

Pathfinder Bank - As Lender

By: Jeremy A. Fadden
Jeremy A. Fadden, Assistant Vice President

11/15/16
Date

Carriage House Village Apartments, L.P. - as Borrower:

By: _____
Signature, Title

Date

214 West First Street
Oswego, NY 13126
Phone 315-343-0057 Fax 315-343-7218



September 1, 2016

Carriage House Village Apartments, L.P.
Attn: Thomas Capozzi
6838 East Genesee Street
Fayetteville, New York 13066

Dear Tom:

Pathfinder Bank ("Lender") is pleased to advise you that it has approved Carriage House Village Apartments, L.P.'s application for a \$1,701,463 construction-to-permanent commercial mortgage loan on the property located at 6 Carriage House Circle, Cazenovia, New York, to be funded by Lender purchasing a bank qualified tax-exempt bond (the "Bond") to be issued by the Madison County Industrial Development Agency (the "Issuer") subject to the following terms and conditions:

SECTION I – TERMS

The terms of the loan are as follows:

- 1.1 **Borrower:** Carriage House Village Apartments, L.P. ("Borrower")
- 1.2 **Loan Amount:** Up to \$1,701,463.00 ("Loan").
- 1.3 **Purpose:** The Loan will be used to: renovate the improvements (the "Improvements") located on the property (the "Land") located at 6 Carriage House Circle, Cazenovia, New York (collectively, the "Project").
- 1.4 **Guarantor:** None.
- 1.5 **Definitions:**

Construction Loan: The Loan prior to conversion to the Permanent Loan.

Construction Loan Maturity Date: 12 months from Loan closing.

Permanent Loan: The Loan after conversion.

Permanent Loan Maturity Date: 25 years from Loan closing.

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TC

1.6 **Interest Rates:** Interest shall be computed on the basis of a 360-day year and shall be payable in arrears on the first day of each month for the actual number of days elapsed, which will result in a slightly higher effective annual rate.

- (a) **Option #1:** A fixed rate of 2.625% for the first three years of the Loan, adjusting thereafter to the Federal Home Loan Bank of New York Three-Year Advance Rate plus a margin of 175 basis points. The interest rate shall be re-priced every three years.
- (b) **Option #2:** A fixed rate of 2.75% for the first five years of the Loan, adjusting thereafter to the Federal Home Loan Bank of New York Five-Year Advance Rate plus a margin of 175 basis points. The interest rate shall be re-priced every five years.

1.7 **Payment Terms:**

- (a) **Construction Loan:** Borrower shall pay interest on the outstanding balance of the Construction Loan on the first day of the first month following Loan closing and on the first day of each month thereafter until conversion.
- (b) **Permanent Loan:** Borrower shall pay principal and interest on the outstanding balance of the Permanent Loan on the first day of each month through the Permanent Loan Maturity Date. Principal payments shall be amortized over 25 years.
- (c) **Prepayment:** A prepayment penalty may be assessed at the Bank's option. Such penalty will not exceed 3% the first year; 2% the second year and 1% the third year from closing date.
- (d) **Loan Fee:** At the Loan closing, Borrower shall pay Lender a Loan Fee of \$8,507 (0.5% of the Loan).

SECTION II – COLLATERAL

The Loan shall be evidenced by a Promissory Note ("Note") and Building Loan Agreement and shall be secured by the following collateral:

- 2.1 **Mortgage and Security Agreement and Fixture Filing:** A Mortgage and Security Agreement and Fixture Filing ("Mortgage") creating a first lien on the Land and Improvements and first lien and security interest in all of Borrower's furniture, fixtures and equipment located on the Project. The Mortgage shall be insured by a title insurance policy issued pursuant to the provisions hereof.

Lender shall have the right to accelerate the Loan upon existence of secondary financing secured by the Project, other than the existing USDA mortgage relating

to a loan from the USDA (the "USDA Loan") that will be subordinated to Lender's mortgage at closing, or upon sale of, or other transfer of interests in, the Project. No assumption of the Mortgage will be permitted without the Lender's prior written consent.

- 2.2 **Assignment of Leases and Rents:** A Collateral Assignment of Leases and Rents assigning all leases, subleases and other agreements entered into by Borrower relating to the use and occupancy of the Project.
- 2.3 **Assignment of Contract Documents:** An Assignment of Contract Documents assigning all architecture contracts, construction contracts and subcontracts, plans, specifications, drawings, surveys, renderings and models prepared for the Project.
- 2.4 **Other documents the Lender may require at or prior to closing of the Loan.**

SECTION III – CONDITIONS PRECEDENT TO CLOSING

It shall be the obligation of the Borrower to furnish the information described in the attached Schedule A, and comply with other conditions contained therein, as soon as possible, but not less than 10 days before closing. In addition, the closing of the Loan is contingent upon the following:

- 3.1 **Project Budget, Plans and Specifications:** Lender's receipt and satisfactory review of the Project budget, plans and specifications.
- 3.2 **Construction and Draw Schedule:** Lender's receipt and satisfactory review of Borrower's proposed construction schedule, which shall include a list of the improvements to be made, when the improvements will be complete, and the cost associated with each improvement. Construction Loan draws are at the sole approval and discretion of Lender and subject to a 10% retainage.
- 3.3 **Appraisal:** Lender's receipt and satisfactory review of an "as is" and "as complete" appraisal of the Project, supporting a loan-to-value ratio not to exceed 80%. The acceptability of the appraisal is at Lender's sole discretion. The appraisal must meet USDA/USPAP and Rural Housing Service standards.
- 3.4 **Environmental:** Lender's receipt and satisfactory review of an environmental assessment of the Project, in scope acceptable to Lender.
- 3.5 **LP Agreement:** Lender's receipt and satisfactory review of Borrower's limited partnership agreement.
- 3.6 **Management Agreement:** Lender's receipt and satisfactory review of Borrower's management agreement for the project.

- 3.7 **NYS HTFC Rent Guaranty:** Lender's receipt and satisfactory review of Borrower's agreement with New York State Housing Trust Fund Corporation for the guaranty of the payment of rents at the Project.
- 3.8 **Low Income Housing Tax Credits:** Lender's receipt and satisfactory review of documentation establishing a reservation of low income housing tax credits ("LIHTC"). Lender will require documentation confirming the New York State Homes and Community Renewals (or another issues accepted to Lender) Agreement to issue LIHTC in an amount and for a period acceptable to Lender. At closing, the purchase of the LIHTC shall be consummated and the proceeds made available for the Project.
- 3.9 **USDA Loan:** Lender's receipt and satisfactory review of Borrower's agreement with the USDA to subordinate its mortgage to Lender's mortgage and defer payments on the USDA Loan during the period of Lender's loan.
- 3.10 **Opinion:** At Closing, Borrower shall deliver the opinion of bond counsel to the Issuer that (i) interest on the Bond is not included in the gross income of the owner thereof for federal income tax purposes, (ii) the Bond is a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Internal Revenue Code, and (iii) interest on the Bond is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof.

SECTION IV – LOAN ADMINISTRATION:

- 4.1 **Financial Reports:** Borrower shall promptly provide Lender with such financial reports and information relating to Borrower's financial condition as Lender may reasonably request, including without limitation, Borrower's annual financial statements and Federal tax returns, prepared by an independent third party, within 120 days of calendar year end. All financial statements and tax returns ("Statements") furnished to Lender will be in a form and content satisfactory to Lender, certified to be correct by the party offering such Statements, and include a representation that Lender may rely on such Statements.
- 4.2 **Covenants:** Borrower shall maintain the following loan and financial covenants while any commitments or loan obligations are outstanding and due to the Lender:
- (a) Other than the USDA Loan, there shall be no additional debt, either secured or unsecured, relating to the Project without Lender's prior written approval.
 - (b) Borrower shall maintain a debt service coverage of 1.15:1 on the Project, measured annually and defined as follows:

"Debt Service Coverage" formula is:

Net Profit + depreciation + amortization + interest expense divided by principal and interest payments based on the loan amount as outlined herein and all other debt positions, including capital leases, measured at fiscal year-end.

- 4.3 **Accounts:** Borrower has agreed to move all of Borrower's deposit accounts to Lender.
- 4.4 **Late Charges:** The Note will require payment of a late charge of 6% of any payment not received within 10 days of when due and will provide that the interest rate will increase by 6% per annum if the Note is not paid when due, or if, and for so long as, there exists any uncured event of default under the Loan.
- 4.5 **Cross Default:** The Loan Agreement will contain a provision stating that a default by the Borrower of the Loan will create a default in any existing related loans at Lender, and vice-versa.

If you sign this commitment, and do not close the Loan in accordance with the described terms, you may lose some or all of the fees or charges you have paid. Moreover, you agree to reimburse Lender for fees and expenses incurred, including reasonable attorneys' fees. Upon receipt of the proper documents, a convenient time to close shall be scheduled. If the Loan is not closed within 60 days of the date of this letter, this commitment will become null and void.

We are pleased to serve you in this transaction.

PATHFINDER BANK

By: 
Jeremy Fadden
Assistant Vice President

ACCEPTANCE

If you find this letter to be in accordance with your understanding of the transaction, please indicate such acceptance by signing and returning the attached original of this letter to the undersigned within 15 days from the date of this letter or Lender, at its option, may cancel this commitment.

In consideration of the above, the undersigned hereby acknowledges that I have received and understand the terms of the commitment and that I agree to accept the loan offer under the terms set forth and that I/we intend to finalize the above transaction at the closing. I agree to authorize Pathfinder Bank to issue instructions for the above transaction to the closing attorney for preparation of the necessary legal documents and agree to pay all costs connected with the loan as stated.

Borrower:

CARRIAGE HOUSE VILLAGE APARTMENTS, L.P.

By: Thom C. Grogan
MANAGING GEN. PRT. Partner

09/13/16
Date

Attorney to represent the Borrower:

BRUCE FOUGHTER

Phone #: (315) 474-2943

SCHEDULE A

CONDITIONS PRECEDENT TO LOAN CLOSING

The following conditions shall be complied with to the satisfaction of Pathfinder Bank on or before the closing date or the obligations of Pathfinder Bank hereunder shall terminate.

I. TITLE INSURANCE POLICY, SEARCHES, SURVEY AND OTHER DOCUMENTS:

Borrower(s) shall provide to the Bank, at Borrower's expense or prior to closing, the following:

A. An ALTA Standard Policy issued by the title insurance company satisfactory to the Bank, which policy shall insure each and every mortgage given to the Bank to secure the Loan to be a first lien against the real property, subject only to such matters to be approved by the bank or its counsel.

B. Tax searches and searches of the filing offices of the Secretary of State and Oswego County, reflecting any financing statements filed against the Borrower or the real property.

C. Any other searches or other documentation deemed reasonably necessary by the Bank or its counsel.

D. Pathfinder Bank shall receive a survey of the Project prepared by a surveyor registered or licensed in New York, which survey shall contain the legal description of the Project and a certification from the surveyor to Pathfinder Bank and the Title Company that it was prepared in compliance with Standards of the American Title Association, and that the survey shows: (i) the location of the perimeter of the Project by courses and distance, (ii) all easements affecting the Project whether benefiting or burdening same, rights of way and existing utility line whether recorded or disclosed by a physical inspection of the Project, (iii) a calculation of the acreage of the Project, (iv) any established building lines or restrictions of record or other restrictions that have been established by any applicable zoning or building code or ordinance, (v) the lines of the public streets abutting the Project and the widths thereof, (vi) encroachments and the extent thereof in feet and inches onto the project and all encroachments by any buildings, structures or improvements located on the Project onto any easements and onto the property adjacent to the Project, (vii) all buildings, structures and improvements and any other physical matters on the ground which may adversely affect the Project or title thereto and the relationship of such buildings, structures, improvements and other physical matters by distances to the perimeter of the Project, established building lines and street lines, (viii) that there exists adequate means of ingress and egress to and from the Project and that the Project does not serve any adjoining property for ingress, egress or any other purpose, (ix) if the Project is described as being on a filed map, a legend

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relating the survey to such map, and (x) whether the Project is located in a special flood or mudslide hazard area as determined by a review of a stated and identified Flood Hazard Boundary Map or Flood Hazard Rate Map published by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development.

E. Evidence satisfactory to Pathfinder Bank that the Project is now and will be upon completion in compliance with all applicable zoning and all other laws, ordinances, rules, regulations and restrictive covenants.

F. Borrower shall have furnished evidence satisfactory to Pathfinder Bank that all utility services required for the Project are available and in adequate supply at the boundaries of the Project.

G. Pathfinder Bank shall receive certified copies of all leases, licenses, franchises, permits and agreements required for the operation, use and occupancy of the project, which are obtainable in the judgment of Pathfinder Bank by the closing date, including a currently effective Certificate of Occupancy.

H. Prior to closing Borrower shall deliver to Pathfinder Bank satisfactory proof of the existence of Property and Comprehensive General Liability Insurance on the Project in companies "rated A Class VIII" or better in the most recent publication of "Best's Key Rating Guide, Property-Casualty" and on the terms and conditions satisfactory to Pathfinder Bank setting forth Pathfinder Bank as a named insured. The Property Insurance shall meet the following requirements: (i) contain "Extended", "Special", "Multi-peril", "All Risk", "Broad Form", "Boiler and Machinery", and "Business Income", and overages and such other overages as Pathfinder Bank may require; and (ii) provide coverage amount based on "100% Replacement Cost Value". The Comprehensive General Liability Insurance shall contain "Broad Form" coverage. Prior to closing, Borrower shall also deliver to Pathfinder Bank a paid invoice for such insurance setting forth that the first year's premium is paid. Further such insurance shall provide that the Insurer must notify Pathfinder Bank 30 days in advance of cancellation, intent not to renew, or intent to materially change coverage or premium charged. All of such insurance shall be maintained during the entire time the Loan is unpaid.

I. Pathfinder Bank shall obtain, prior to the closing, satisfactory evidence as to whether (i) the Project is located in an area designated by the Department of Housing and Urban Development as having special flood or mudslide hazards, and (ii) the community in which the Project is located is participating in the National Flood Insurance Program. If both of the aforesaid conditions exist, Pathfinder Bank shall receive satisfactory policies of flood insurance covering the improvements to be constructed on the Project.

J. Borrower shall provide Pathfinder Bank with evidence of Corporate or LLC authority and authorization to enter into this loan, including certificates of resolution and consents all, or any other documentation reasonably required by Pathfinder Bank counsel, together with certified copies of all applicable organizational documents, filing receipts,

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good standing certificates, incumbency and signature certificates for the person executing the loan documents.

II. ENVIRONMENTAL MATTERS

Borrower's completion and Pathfinder Bank's review of the enclosed Environmental Questionnaire.

Pathfinder Bank reserves the right to require an Environmental Screening Report, a Phase I Environmental Audit, Environmental Insurance and further audits/reports, based on the completion of the enclosed Environmental Questionnaire and or other factors. The Bank will require an agreement that Borrower will indemnify Pathfinder Bank against, and hold Lender harmless from , any and all loss, cost or expense that Lender may incur as a result of violations of Environmental Laws or hazardous wastes in connection with the Project.

III. LOAN DOCUMENTS

Borrower(s) shall have executed and delivered, or shall have caused to be executed and delivered, all in form and content satisfactory to Pathfinder Bank, the following documents (the "Loan Documents"):

- A. A promissory note in the full amount of the loan.
- B. A first mortgage on the Project.
- C. A security agreement covering all items of personal property covered by the Uniform Commercial Code, and appropriate Financing Statements therefore.
- D. Leases of the real property satisfactory to the Bank, in its sole discretion.
- E. Conditional Assignment of the Leases and Rentals of the real property.
- F. Borrowers shall provide Pathfinder Bank with agreements from such tenants, sub-tenants and lessees satisfactory to Pathfinder Bank, subordinating all such leases to the lien of the mortgage. Such agreement shall also contain such other terms as may be reasonably required by Pathfinder Bank. In lieu of Lease subordination, the Pathfinder Bank will accept clause in executed lease agreements stating that the lease is subordinate to any mortgage on the leased premises.
- G. Such agreements to guarantee payment and performance of the Loan documents, as required by Pathfinder Bank.
- H. Such other and further documents as deemed necessary and proper by Pathfinder Bank or the attorney for Pathfinder Bank.

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I. Borrower shall execute, at the time of closing, such indemnities as may be required by Bank regarding any loss or liability Bank may incur rising from environmental matters in connection with the real property.

IV. ADVERSE MATERIAL CHANGE:

In the event of the insolvency or a material adverse change in the financial position of the Borrower(s) or the Guarantor(s), or the value of the collateral Pathfinder Bank's obligation to make further disbursements of the loan after the occurrence of such an event shall abate, and at the option of Pathfinder Bank, the outstanding principal balance of the loan and accrued and unpaid interest thereon shall be immediately due and payable.

V. PATHFINDER BANK NOT A JOINT VENTURER:

Notwithstanding anything to the contrary herein contained, Pathfinder Bank by making this commitment or by any action pursuant hereto, will not be deemed a partner or Joint Venturer with Borrower and Borrower agrees to hold Pathfinder Bank harmless from any damages and expenses resulting from such a construction of the relationship of the parties or any assertion thereof.

VI. EXPENSES:

Borrower(s) agree(s) to pay all taxes and assessments and all recording fees, registration taxes, title insurance premiums and other charges of the title company, attorney fees, fees of counsel for Pathfinder Bank, appraisal fees, construction inspection fees, fees of third-party consultants retained by Pathfinder Bank, the cost of all survey, and all other expenses of closing the loan, whether or not the loan is made, unless the loan is not made because of the wrongful delay of Pathfinder Bank.

VII. ASSIGNMENT

This proposal may not be assigned by the Borrower.

VIII. PROPOSAL NOT DEFINITIVE

This letter is not intended to be a definitive contract or to define all terms of the transaction contemplated in this letter. Any consummation of the transaction contemplated in this letter is contingent upon the approval by the Bank and its counsel, with respect to the form and substance of all documents deemed appropriate for the consummation of this transaction and all other legal matters relating to it. All documents must contain such terms, conditions, covenants, events of default, guarantees, and other matters as the Bank or its counsel, Edward A. Mervine, Esq., deems appropriate. Borrower agrees to provide, at its sole expense, all documents so requested by the Bank and its counsel.

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