

**SECOND AMENDED & RESTATED
DEVELOPMENT AGREEMENT**

BETWEEN

THE TOWN OF FRISCO

AND

NHPF WEST MAIN, LLC

Dated as of June 25, 2024

TABLE OF CONTENTS

	PAGE
SECTION 1	DEFINITIONS2
SECTION 2	DESCRIPTION OF THE DEVELOPMENT.....4
SECTION 3	SALE TO TOWN; LEASE BACK BY DEVELOPER.....8
SECTION 4	INTENTIONALLY OMITTED11
SECTION 5	TOWN HOUSING AUTHORITY PARTICIPATION.....11
SECTION 6	DEVELOPMENT APPROVALS13
SECTION 7	CERTAIN TERMINATIONS.....14
SECTION 8	REPRESENTATIONS AND WARRANTIES.....15
SECTION 9	EVENTS OF DEFAULT16
SECTION 10	RESTRICTIONS ON ASSIGNMENT AND TRANSFER.....18
SECTION 11	INDEMNIFICATION OF TOWN AND TOWN HOUSING AUTHORITY.....18
SECTION 12	MISCELLANEOUS.....19

EXHIBIT A LEGAL DESCRIPTION OF DEVELOPER PROPERTY

THIS SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT, dated as of June 25, 2024 (the “Effective Date”) and any amendments hereto made in accordance herewith (as from time to time amended and supplemented in accordance herewith, this “Agreement”), is made by and between the TOWN OF FRISCO, a Colorado home rule municipal corporation (the “Town”), the FRISCO COMMUNITY HOUSING DEVELOPMENT AUTHORITY, a Colorado body corporate and politic (the “Town Housing Authority”), The NHP Foundation, a District of Columbia nonprofit corporation (“NHP”), and NHPF WEST MAIN, LLC, a Colorado limited liability company and subsidiary of NHP (together with NHP, and any permitted successors and/or assigns, “Developer”).

RECITALS

A. The Town is a municipal corporation and political subdivision duly organized and existing under the constitution and laws of the state of Colorado and its home rule charter;

B. Developer owns certain real property commonly known as 101 West Main Street, Frisco, Colorado and legally described in Exhibit A (the “Redevelopment Property”);

C. Developer desires to develop the Redevelopment Property as affordable housing. Developer intends to submit an application to the Colorado Housing and Finance Authority (“CHFA”) for an allocation of federal low-income housing tax credits (“LIHTC”) under Section 42 of the Internal Revenue Code of 1986 with respect to the Redevelopment Property;

D. Developer will form a limited partnership or limited liability company (the “Redevelopment Property Ownership Entity”) to plan, entitle, acquire, finance, construct improvements on and own Redevelopment Property. Developer previously requested that the Town make a loan of \$2,500,000.00 to assist Developer in its acquisition of Redevelopment Property and the Town approved and funded such loan (the “Loan”), which was secured by a Deed of Trust encumbering the Redevelopment Property and accompanied by a recorded Affordability Covenant for the benefit of the Town. The Developer intends to form an affiliate to serve as the general partner or managing member of the Redevelopment Property Ownership Entity and Developer or its affiliate would serve as the initial member or limited partner of the Redevelopment Property Ownership Entity, which, if CHFA allocates 4% federal LIHTC along with an allocation of Colorado state housing tax credits to the Redevelopment Property, would be replaced by a nationally-recognized tax credit investor which would be admitted as the investor limited partner or member of the Redevelopment Property Ownership Entity;

E. The Town has established a housing authority under Chapter 29, Article 4, of the Colorado Revised Statutes, as amended (the “Town Housing Authority”), to assist in meeting the critical needs of development of affordable housing in the Town. The parties contemplate that an affiliate of the Town Housing Authority may serve as a special limited partner or member of the Redevelopment Property Ownership Entity, which may enable such ownership entity to receive a property tax exemption under C.R.S. Section 29-4-227(1)(b) in proportion to the percentage of affordable units developed on such property and an exemption under C.R.S. Section 29-4-227(2) for sales and use tax during construction; and

F. In connection with redevelopment by Developer of the Developer Property as well as a separate parcel owned by the Town addressed as 602 Galena, Frisco, Colorado (the “Town Property”), the Town and The NHP Foundation entered into that certain Development Agreement dated May 23, 2023 (as amended by that certain First Amendment to Development Agreement dated the same date, the “Original Development Agreement”).

G. NHPF West Main, LLC, a subsidiary of Developer, purchased the Developer Property on June 14, 2023. NHPF West Main, LLC assumed Developer's obligations under the Original Development Agreement with respect to the Developer Property, as memorialized in that certain Partial Assignment and Assumption of Development Agreement dated June 16, 2023.

H. The parties now desire to restate the Original Development Agreement in its entirety, bifurcating it into one development agreement governing redevelopment of the Town Property and another development agreement governing redevelopment of the Developer Property. This Agreement concerns redevelopment of the Developer Property.

I. Developer has agreed to design and construct the project on the Redevelopment Property in accordance with this Agreement and with all applicable local, state, and federal laws.

AGREEMENT

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

SECTION 1 DEFINITIONS.

"Agreement" has the meaning set forth in the first paragraph of this Agreement. References to Sections and Exhibits are to this Agreement unless otherwise qualified.

"CHFA" means the Colorado Housing and Finance Authority.

"Developer" has the meaning set forth in the first paragraph of this Agreement.

"Dwelling Unit" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Effective Date" has the meaning set forth in the first paragraph of this Agreement.

"Environmental Laws" means all federal, state and local environmental, health and safety statutes, as may from time to time be in effect, including but not limited to federal laws such as the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9602, et seq., the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601(20)(D), the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act Amendments of 1977, 33 U.S.C. §§ 1251, et seq. ("CWA"), the Clean Air Act of 1966, as amended, 42 U.S.C. §§ 7401, et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136, et seq., the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300f, et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq., and any and all federal, state and local rules, regulations, authorizations, judgments, decrees, concessions, grants, franchises, agreements and other governmental restrictions and other agreements relating to the environment or to any pollutants, as may from time to time be in effect.

"Ground Lease" has the meaning set forth in Section 3.01.

"Indemnified Parties" has the meaning set forth in Section 11.01.

“LIHTC” means federal LIHTC pursuant to Section 42 of the Internal Revenue Code, as amended.

“Loan” has the meaning set forth in the Recitals.

“LURA” has the meaning set forth in Section 5.03.

“Project” has the meaning set forth in Section 2.01.

“Redevelopment Property” means the real property legally described in Exhibit A.

“Redevelopment Property Ownership Entity” has the meaning set forth in Recital “D” above.

“Town” has the meaning set forth in the first paragraph of this Agreement.

“Town Code” means the Code of Ordinances of the Town of Frisco.

“Town Housing Authority” has the meaning set forth in Recital “E” above.

“Unavoidable Delays” means delays, outside the control of the party claiming their occurrence, which are the direct result of strikes, lockouts, other labor troubles, unusually severe or prolonged bad weather, acts of God, acts of war or terrorism, pandemic and related acts of any federal, state or local government (other than the Town) including, but not limited to, responsive legislation, states of emergency and executive orders, fire or other casualty to the property, litigation commenced by third parties which, by injunction or other similar judicial action or by the exercise of reasonable discretion, directly results in delays, or acts of any federal, state or local governmental unit (other than the Town) which directly result in delays, acts of the public enemy or acts of terrorism and discovery of unknown hazardous materials or other concealed site conditions or delays of contractors due to such discovery. In the event of an Unavoidable Delay, the applicable dates or deadlines that are subject to Unavoidable Delays as provided herein shall be extended by one (1) calendar day for each corresponding calendar day the applicable Unavoidable Delay is in effect.

SECTION 2 DESCRIPTION OF THE DEVELOPMENT.

Section 2.01 Development of the Redevelopment Property.

(a) Developer shall develop the Redevelopment Property into not less than the following number of Dwelling Units of affordable housing in accordance with the following unit mix and square footage:

Current Unit Mix			10%	46%	10%	35%
Unit Type	Total Units	Square feet	30% AMI	50% AMI	60% AMI	80% AMI
Studio	24	362	2	13	0	9
1 Bedroom	17	636	2	9	0	6
2 Bedroom	11	926	1	5	0	5
Total	52 units	29,686	5	27	0	20

Developer agrees to the foregoing unit mix and affordability requirements.

(b) Developer intends to submit an application to CHFA for an allocation of Colorado tax-exempt bonding authority and 4% federal LIHTC along with an allocation of Colorado state housing tax credits for the Redevelopment Property.

(c) Subject to Unavoidable Delays, the construction of the Redevelopment Property will commence on the earlier of (i) 180 days following the award of a LIHTC by CHFA for the development of the Redevelopment Property; or 540 days from the Effective Date, and the construction of the improvements contemplated herein to the Redevelopment Property shall be completed not more than sixteen (16) months after the start of construction.

(d) The Town or its affiliate (which may include the Town Housing Authority) shall have a first right of first refusal to acquire the Redevelopment Property at the price and in accordance with the terms of any bona fide, third party offer which the Developer intends to accept. In addition, in the event that the Developer desires to directly or indirectly convey its partner or membership interests in the Redevelopment Property Ownership Entity, the Town or its affiliate (which may include the Town Housing Authority) shall similarly have a first right of first refusal to acquire such interests at the price and in accordance with the terms of any bona fide, third party offer which the Developer intends to accept.

Section 2.03 Developer Obligations with Respect to Redevelopment Property.

(a) Any change in the number of units, size or affordability requirements in the Dwelling Units on the Redevelopment Property from the descriptions set forth in this Section 2 shall require the prior written consent of the Town, in its reasonable discretion. The Town Manager may approve in writing an increase or decrease of up to 10% of the number of units, average unit size, or the average affordability requirements. An increase or decrease of more than 10% of the number of units, average unit size, or the average affordability requirements will be subject to the approval of the Town Council.

(b) Developer will, at its sole cost and expense, make any and all development applications, and take any and all actions that are legally necessary or desirable to Developer to develop the properties in accordance with the parameters defined within the Agreement. Developer will be solely responsible for the development costs and costs of construction of the Redevelopment Property. Developer shall be solely responsible for all guarantees related to the approved projects.

(c) As a condition of the Town's approval of a density bonus for the Project, Developer has executed and recorded in the real property records of Summit County that certain Residential Housing Restrictive Covenant and Notice of Lien for 101 W. Main Street, Town of Frisco, Summit County, Colorado dated June 16, 2023 at reception number 1312893 ("Affordability Covenant"). The Affordability Covenant will not be subordinated to any financing for the project(s) on the Redevelopment Property.

(d) Developer recognizes that current Town of Frisco Building Codes require residential development to be designed to meet Zero Energy Ready Homes (ZERH) requirements, and that commercial developments are required to be 10% more energy efficient than the 2018 IECC. Developer shall pursue designing and constructing the projects on the Redevelopment

Property to be Net-Zero Energy projects and / or maximizing sustainability features, and any failure of the Redevelopment Property to comply with the Net-Zero Energy requirements shall require the prior written consent of the Town, which shall not be unreasonably withheld.

(e) The Town shall have a right to examine any and all books and financial records of Developer that may relate to the Redevelopment Property from time to time, and to cause an audit of the same at the Town's expense, in order to ensure compliance with the terms and conditions of this Agreement.

(f) Developer's developer fee for the residential component of the project(s) on the Redevelopment Property shall not exceed the maximum allowed by the then applicable qualified allocation plan of CHFA. Developer shall be entitled to a commercially reasonable developer fee for the non-LIHTC space in the project(s). The Town or its affiliate (which may include the Town Housing Authority) shall be entitled to a payment equal to 10% of the developer fee payable to Developer or its affiliate with respect to the development of the Redevelopment Property, payable pari passu with any payments of developer fee to Developer or its affiliate.

(g) Developer understands that the Town may subsidize or encourage the development of other developments in the Town, including properties that compete with the Redevelopment Property, and that such subsidies may be more favorable than the terms of this Agreement, and that the Town has not represented that development of the Redevelopment Property will be favored over the development of other properties.

(h) Developer agrees to develop the Redevelopment Property with reasonable care and diligence in accordance with this Agreement. The Town acknowledges that Developer is not a licensed architect, engineer, or contractor, and nothing in this Agreement shall be deemed to require Developer to perform any act which would constitute the practice of architecture, engineering, or construction.

SECTION 3 SALE TO TOWN; LEASE BACK BY DEVELOPER.

Section 3.01 The Town has been awarded \$5,000,000 in Proposition 123 funding to acquire the Redevelopment Property from the Developer to facilitate the redevelopment Project. The Developer agrees to offer to the Town the right to purchase the Redevelopment Property for an amount equal to the price equal to amount of the proceeds of its Proposition 123 grant. The Town reserves the right to use any other Town funds available for this purpose. The Town may exercise its right by providing written notice of exercise to Developer. If the Town exercises its right to purchase the Redevelopment Property and uses Proposition 123 grant proceeds to fund its acquisition, Developer agrees to comply (and to cause the Redevelopment Property Ownership Entity to comply) with all rules applicable to the Project and its owner imposed by or referenced in the Proposition 123 grant agreement(s) executed by the Town, including meeting any deadlines by which the Town must expend the grant funds on eligible costs and assisting the Town with satisfying its obligations to CHFA with respect to reporting on grant compliance.

Section 3.02 Immediately following the Town's acquisition, and as a condition to Developer's sale of the Redevelopment Property to the Town, the Town agrees to lease the Redevelopment Property back to Developer for a term of 99 years (the "Ground Lease"). The form of Ground Lease shall be acceptable to the Town and Developer. The Ground Lease will provide for nominal ground rent in the amount of \$100/year, subject to the consent of Developer's tax credit investor, and such other commercially reasonable and customary terms as are included in ground leases for LIHTC projects in Colorado.

Section 3.03 To the extent Developer currently maintains cash reserves designated for use in operating and rehabilitating the Redevelopment Property, the Town agrees that such reserves will remain available to the Developer after the sale-leaseback transaction contemplated in this Section 3.

Section 3.04 Federal funds may be used to finance the Project. As a result, environmental review may be required by federal law. The parties agree that the Town has no obligation to purchase the Redevelopment Property, and no transfer of title may occur, unless and until the governmental entity responsible for conducting the applicable environmental review (the “Responsible Entity”) has provided the parties with a written notification that: (a) the Responsible Entity has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other contingencies in this Agreement: (i) the purchase may proceed, or (i) the purchase may proceed only if certain conditions to address issues in the environmental review are satisfied before or after the purchase of the Redevelopment Property; or (b) the Responsible Entity has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. The parties intend to close the sale-leaseback described in this Section 3 as soon as reasonably practicable following successful completion of environmental review for the Project.

SECTION 4 INTENTIONALLY OMITTED.

SECTION 5 TOWN HOUSING AUTHORITY PARTICIPATION.

The Town Housing Authority, either directly or through a wholly owned subsidiary, shall be entitled to become a special limited partner or special member of the Redevelopment Property Ownership Entity, under the terms outlined below:

Section 5.01 Town Housing Authority may acquire a 0.01% non-managing member (non-managing/non-controlling) interest in the Redevelopment Property Ownership Entity pursuant to an Addendum to be executed at the financing closing of the Redevelopment Property.

Section 5.02 Developer agrees to pay all out-of-pocket expenses, including, without limitation, all legal fees, applicable to Town Housing Authority’s admission as a special limited partner or member of the Redevelopment Property Ownership Entity.

Section 5.03 At the end of the 15 year compliance period and every 3 years thereafter, the Town Housing Authority will review the economic health of the Redevelopment Property and other conditions and determine whether continuing the property tax exemption for the subsequent years is needed for the property to be financially viable based upon the affordability restrictions imposed by the land use restriction in favor of CHFA (the “LURA”), the Affordability Covenant, and financing documents. If the Town Housing Authority reasonably concludes that the property tax exemption is not needed for such property to be financially viable, the Town Housing Authority may withdraw as a special limited partner or member of the Redevelopment Property Ownership Entity. If the Town Housing Authority reasonably determines that the property tax exemption is still necessary for the financial viability of the property, in full or in part, Town Housing Authority will remain as a special limited partner or member of the Redevelopment Property Ownership Entity.

Section 5.04 Upon any material violation by Town Housing Authority of the partnership agreement or operating agreement of the Redevelopment Property Ownership Entity which causes material adverse harm to such entity and not cured within a reasonable time after written notice

from the Developer, the Developer shall have the option to purchase Town Housing Authority's partnership or membership interest for a price equal to \$100.00.

Section 5.05 The Town Housing Authority will receive copies of the standard operating, leasing, financial and other reports, audits and tax returns, that are provided to the tax credit investor in the same frequency as required by the tax credit investor, or, to the extent that the tax credit investor is not a partner or member in the Redevelopment Property Ownership Entity, the Town Housing Authority shall be entitled to receive copies of the standard operating, leasing, financial and other reports, audits and tax returns, on the same basis as existed when the tax credit investor was a partner or member in such entity or such other basis as agreed to in writing by the Town. Failure to provide such reports within the defined timeframe will result in a \$100.00 per day penalty payable by the Developer to the Town Housing Authority, beginning on the date that the Town Housing Authority provides written notice of such default.

Section 5.06 The Developer will provide a complete set of closing documents to the Town Housing Authority within thirty (30) calendar days after execution of the documents provided the same have been delivered to the Developer. Failure to provide such documents within such thirty (30) days, after ten days following written demand therefore, will result in a \$100.00 per day fee payable to the Town Housing Authority until documents are provided and/or the Town Housing Authority exercises default provision and withdraws as a partner or member of such entity. The Town Housing Authority agrees and acknowledges that some documents (e.g. title policy) may not be available on this timeline and, as a result, a final and full closing transcript will not be available.

Section 5.07 The Town Housing Authority shall have the right to withdraw as a partner or member of the Redevelopment Property Ownership Entity upon thirty (30) days written notice to Developer, upon any of the following: (i) a material breach by the Developer or the Redevelopment Property Ownership Entity, as applicable, of any provisions of the this Agreement or the applicable operating agreement or partnership agreement or related agreements of such entity, if such breach is not cured within thirty (30) days following written notice thereof to the Developer and the tax credit investor or if such breach is not able to be cured within thirty (30) days then within sixty (60) days, so long as the Developer is diligently pursuing a cure within the first thirty (30) day period; (ii) a failure of the Redevelopment Property Ownership Entity to comply with the LURA and such failure is not cured within ninety (90) days following written notice thereof by CHFA to the such entity; (iv) a failure of the Redevelopment Property Ownership Entity to maintain the Redevelopment Property in compliance with applicable laws or otherwise breaches applicable laws, and such failure is not cured within thirty (30) days following written notice thereof by the Town to the developer and tax credit investor or, if such breach is not able to be cured within thirty (30) days, then within sixty (60) days, so long as the Developer is diligently pursuing a cure within the first thirty (30) day period; (v) the admission of a new general partner or managing member to the Redevelopment Property Ownership Entity without the consent of the Town Housing Authority which is unrelated to developer, other than pursuant to the removal and replacement of such general partner or managing member pursuant to the partnership agreement or operating agreement; (vi) the refinancing of company debt, unless the Town Housing Authority has consented to the refinancing, which consent shall not be unreasonably withheld if the Developer establishes to the satisfaction of the Town Housing Authority that no proceeds of the refinancing shall be used to make any distribution to any partner or member of such entity or repay any loan to a partner or member of such entity (other than repayment of loans made by the general partner, as lender, to the Redevelopment Property Ownership Entity, as borrower, to satisfy general partner construction completion or operating deficit guaranty obligations, which repayments are permitted so long as the Town has been paid at least \$500,000 on the Loan as of the refinancing date, and

the Redevelopment Property is anticipated to operate at a minimum 1.20 debt service coverage ratio after the closing and funding of such refinancing; (vii) a change in Colorado law that no longer permits the Town Housing Authority to provide a property tax exemption to the project; or (viii) an event of bankruptcy with respect to the Redevelopment Property Ownership Entity.

SECTION 6 DEVELOPMENT AND FINANCING APPROVALS.

Section 6.01 Development Approval.

(a) Developer shall make all necessary applications required for the construction associated with the Project through the Town as required by the Town's ordinances and regulations; including, but not limited to the following:

(b) Sketch plan procedures found in Chapter 180 of the Town Code; and

(c) Development plan procedures found in Chapter 180 of the Town Code.

Section 6.02 Intentionally omitted.

Section 6.03 Intentionally omitted.

Section 6.04 Intentionally omitted.

Section 6.05 Development Approvals Generally. The Town agrees reasonably to cooperate with Developer with respect to complete and Town Code-compliant application(s) for any permits or approvals required or permitted by the laws of the Town, and any permits or approvals required from any other governmental agency, for purposes of developing the Redevelopment Property on a timeline compliant with the deadlines included in this Agreement; provided, however, that all applications for such permits and approvals are in compliance with this Agreement and applicable ordinances and/or regulations, and all application shall be subject to the standard approval processes for such applications normally undertaken by the Town. Nothing contained in this Agreement shall be construed to obligate the Town to issue any permit or approval necessary or desirable in connection with the development of the Redevelopment Property, and the Town may issue any such permit or approval in its sole discretion, with or without conditions, and in accordance with applicable laws of the Town and state. Developer understands and agrees that the Town's consideration and decision with respect to any application Developer may file in order to obtain approval of the development of the Redevelopment Property will be a quasi-judicial decision, which decisions are often to be made only after public hearing. Accordingly, in the event that the Redevelopment Property has not received full development approval consistent with this Agreement as it relates to the development plan (whether due to political opposition, initiative, referendum, litigation, the Town's lack of support or any other cause) after three (3) good faith efforts to obtain such approval, then Developer shall have the right to terminate this Agreement by written notice to the Town and the Town and Developer shall proceed in accordance with the provisions of Section 7 below.

SECTION 7 CERTAIN TERMINATIONS.

This Section 7 shall apply only to those circumstances where a given paragraph of this Agreement provides a right to terminate this Agreement and further provides that, in the event of such termination, "...the Town and Developer shall proceed in accordance with the provisions of Section 7 below." In such circumstances, this Agreement shall terminate; if the Affordability

Covenant has been recorded, and the Loan has been repaid to the Town, the Town will execute and record a release of the Deed of Trust and the Affordability Covenant; if the Loan has been made and not repaid, the Town may accelerate it, and Developer shall pay the Town all outstanding principal and interest owed on the Loan within 10 business days after notice of acceleration, and upon receipt of such repayment the Town will record a release of its Affordability Covenant and Deed of Trust securing the Loan; and neither the Town nor Developer shall have any further obligation to the other party whatsoever and neither party shall have any claim for damages against the other based upon such termination.

SECTION 8 REPRESENTATIONS AND WARRANTIES.

Section 8.01 Representations and Warranties by Developer.

Developer represents and warrants that:

(a) It owns the entire fee simple interest in the Redevelopment Property and has complete and sole authority to execute and deliver this Agreement to the Town or, in the event that this Agreement is properly assigned to a corporate entity, that the entity is duly organized and validly existing under the laws of the State of Colorado, that it is not in violation of any provisions of its governing documents or the laws of the State of Colorado, that it has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action;

(b) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the governing documents of Developer or constitute a default or result in the breach of any term or provision of any contract or agreement to which Developer is a party or by which it is bound;

(c) Developer will develop the Redevelopment Property in accordance with all federal, state and local laws;

(d) The construction of the development of the Redevelopment Property would not be undertaken by Developer, and in the opinion of Developer would not be economically feasible within the reasonably foreseeable future, without the assistance and benefit to Developer provided for in this Agreement;

(e) Developer will obtain, or cause to be obtained, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met for the construction and operation of the Project; and

(f) There is no litigation, proceeding or investigation contesting the power or authority of Developer or its officers with respect to the Project or this Agreement, and Developer is unaware of any such litigation, proceeding or investigation that has been threatened.

Section 8.02 Representations and Warranties by the Town. The Town represents and warrants that:

(a) The Town is a home rule municipal corporation and political subdivision validly existing under the laws of the State of Colorado;

(b) The Town has the power to enter into and has taken all actions required to authorize this Agreement and to carry out its obligations hereunder;

(c) There is no litigation, proceeding or investigation contesting the power or authority of the Town or its officials to enter into or consummate the transactions contemplated by this Agreement, and the Town is unaware of any such litigation, proceeding or investigation that has been threatened;

(d) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to the Town or to the Town's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Town is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Town; and

(e) Town will cooperate with Developer with respect to any litigation brought by a third party concerning the Project or this Agreement, except where by the nature of the litigation the Town and Developer are adverse.

SECTION 9 EVENTS OF DEFAULT.

Section 9.01 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean whenever it is used in this Agreement any one or more of the following events:

(a) Subject to Unavoidable Delays, failure by Developer to commence construction of the development of the Redevelopment Property in accordance with the terms of this Agreement;

(b) If any representation or warranty by Developer herein or any document or certificate furnished to the Town proves at any time to be incorrect or misleading as of the date made

(c) If Developer engages in any illegal activities;

(d) Failure of Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, including but not limited to compliance with the requirements set forth in Section 3; and

(e) If, prior to completion of the development of the Redevelopment Property, Developer or Redevelopment Property Ownership Entity shall:

(i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended or under any similar federal or state law; or

(ii) be adjudicated a bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer or Redevelopment Property Ownership Entity as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within 60 days after the filing thereof; or a receiver, trustee or liquidator of Developer or Redevelopment Property Ownership Entity, or of the

Redevelopment Property, or part thereof, shall be appointed in any proceeding brought against Developer or Redevelopment Property Ownership Entity, and shall not be discharged within 60 days after such appointment, or if Developer or Redevelopment Property Ownership Entity, shall consent to or acquiesce in such appointment.

Notwithstanding anything to the contrary set forth in this Agreement, the lenders providing construction or permanent financing and the tax credit investor for the Redevelopment Property shall have the right, but not the obligation, to cure an Event of Default during the applicable cure period provided for Developer and the Town shall accept such cure as though it was made by Developer.

Section 9.02 Remedies on Default. Whenever any Event of Default occurs and is continuing, the Town, as specified below, may take any one or more of the following actions after the giving of thirty (30) days' written notice to Developer, but only if the Event of Default has not been cured within said thirty (30) days; provided that if such Event of Default cannot be reasonably cured within the thirty (30) day period, and Developer has provided reasonable assurances to Town that it is proceeding with due diligence to cure such default, such thirty (30) day cure period shall be extended for an additional period deemed reasonably necessary by the Town to effect the cure, but in any event not to exceed an additional sixty (60) days:

(a) The Town may suspend its performance under this Agreement until such default is cured or the Town determines that it has received adequate assurances from Developer, that Developer will cure its default and continue its performance under this Agreement;

(b) The Town may terminate this Agreement;

(c) Prior to the admission of any tax credit investor as a partner or member to the Redevelopment Property Ownership Entity, the Town may declare the Loan immediately due and payable and foreclose the Deed of Trust; and

(d) The Town may take any action, including legal or administrative action, in law or equity, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Developer under this Agreement.

Section 9.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Town is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.04 No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

SECTION 10 RESTRICTIONS ON ASSIGNMENT AND TRANSFER.

Developer will not assign its rights or delegate its duties and obligations pursuant to this Agreement without the prior written consent of the Town, which consent may be withheld in the

Town's sole and absolute discretion. Any purported assignment without consent of the Town will be null and void. As a condition to granting consent, an assignee will expressly assume in writing the obligations of Developer hereunder and upon any such full assumption of obligations, Developer shall be released from any and all obligations hereunder only if Developer no longer has an ownership interest in Redevelopment Property. Any sale, transfer, assignment, pledge or hypothecation of an interest in the Redevelopment Property Ownership Entity that results in a change in control of that entity (other than a change in control mandated by a tax credit investor pursuant to the partnership agreement or operating agreement for the Redevelopment Property Ownership Entity) will constitute an assignment of this Agreement. However, Developer shall have the right to assign or transfer its interest in the Redevelopment Property to any entity that it controls.

SECTION 11 INDEMNIFICATION OF TOWN AND TOWN HOUSING AUTHORITY.

Section 11.01 Developer releases from and covenants and agrees that the Town, its affiliated entities (including the Town Housing Authority), and its governing bodies' members, officers, agents, including the independent contractors, consultants and legal counsel, servants and employees thereof (collectively the "Indemnified Parties") shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Redevelopment Property or any other loss, cost expense, or penalty. Developer's indemnification obligation does not apply to the extent the Town is determined to have committed willful or wanton misconduct.

Section 11.02 Except for any willful misrepresentation or any willful or wanton misconduct of the Indemnified Parties, Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of Developer (or if other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Redevelopment Property; including, without limitation, any pecuniary loss or penalty. Notwithstanding the foregoing, the Town shall not be indemnified if it sustains any harm related to the unauthorized withdrawal of the Town Housing Authority as an owner of membership or partnership interests in the Redevelopment Property Ownership Entity, nor shall the Town be indemnified to actions taken by the Town in its quasi-judicial capacity.

Section 11.03 All covenants, stipulations, promises, agreements and obligations of the Town contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Town and not of any governing body member, officer, agent, servant or employee of the Town.

Section 11.04 If Developer shall default under any of the provisions of this Agreement, and the Town shall employ attorneys or incur other reasonable expenses for the collection of payments due hereunder, including acceleration of the Loan, or for the enforcement of performance or observance of any obligation or agreement on the part of Developer contained in this Agreement, Developer will within thirty (30) days of request therefor reimburse the Town for the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 11.05 All provisions of this Section 11 shall survive the termination of this Agreement.

SECTION 12 MISCELLANEOUS.

Section 12.01 Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when: (i) given by hand delivery, overnight delivery, mailed by certified or registered mail, postage prepaid, addressed to the appropriate Notice Address or at such other address or addresses as any party hereto designates in writing to the other party hereto; and (ii) copied to the e-mail address set forth under the definition of "Notice Address" below, if an e-mail address is so set forth. A notice certificate or other communication given hereunder shall be effective as of the date of delivery if given by hand or overnight delivery, and seven days following the date on which it was deposited in the U.S. Mail if given by certified or registered mail. Each Notice Address for purposes of this Agreement shall be as set forth below, unless changed in by written notice by the applicable party;

Town:	Town of Frisco P.O. Box 4100 Frisco, Colorado 80443 Attn: Community Development Director
With a copy to:	Thad W. Renaud, Esq. Murray Dahl Beery & Renaud LLP 710 Kipling Street, Suite 300 Lakewood, CO 80215
Town Housing Authority:	Frisco Community Housing Development Authority P.O. Box 4100 Frisco, Colorado 80443 Attn: Executive Director
With a copy to:	Thad W. Renaud, Esq. Murray Dahl Beery & Renaud LLP 710 Kipling Street, Suite 300 Lakewood, CO 80215
Developer:	NHPF West Main, LLC c/o The NHP Foundation Attn: Neal Drobenare 1090 Vermont Ave NW, Suite 400 Washington DC 20005
With a copy to:	New Communities Law PLLC 1919 14 th Street, Suite 700 Boulder, CO 80302 Attn: Ben Doyle

Section 12.02 Waiver. No failure by either party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement, will constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Either party by giving notice to the other party may, but will not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver will affect or alter the remainder of this Agreement, but each and

every covenant, agreement, term and condition of this Agreement will continue in full force and effect with respect to any other then existing or subsequent breach.

Section 12.03 Attorneys' Fees. In any proceeding brought to enforce the provisions of this Agreement, the court shall award the party that substantially prevails on a contested material issue its reasonable attorneys' fees, actual court costs and other expenses incurred in connection with said material issue.

Section 12.04 Titles of Sections. Any titles of the several parts and Sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.

Section 12.05 Town Not a Partner; Developer Not Town's Agent. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, the Town will not be deemed or constituted a partner of or in a joint venture with Developer, Developer will not be the agent of the Town, and the Town will not be responsible for any debt or liability of Developer.

Section 12.06 Applicable Law; Binding Effect. The laws of the State of Colorado will govern the interpretation and enforcement of this Agreement. This Agreement will be binding on and inure to the benefit of the parties hereto, and their successors and assigns.

Section 12.07 Further Assurances. The parties hereto agree to execute such documents, and take such action, as may be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

Section 12.08 Time of Essence. Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 12.09 Counterparts. This Agreement may be executed in several counterparts, each of which together will be an original and all of which will constitute but one and the same instrument.

Section 12.10 Non-Liability of Town Officials and Employees. No council member, commissioner, board member, official, employee, agent or consultant of the Town will be personally liable to Developer in the event of breach or Event of Default by the Town or for any amount that may become due to Developer under the terms of this Agreement.

Section 12.11 Incorporation of Exhibits. All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

Section 12.12 Jointly Drafted; Rules of Construction. The parties hereto agree that this Agreement was jointly drafted, and, therefore, waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

Section 12.13 No Third-Party Beneficiaries. No third-party beneficiary rights are created in favor of any person not a party to this Agreement it being the intent of the parties hereto that they be and remain the sole beneficiaries of this Agreement.

Section 12.14 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter, including that certain Development Agreement dated May 23, 2023 between the Town and The NHP Foundation, as subsequently amended and partially assigned to Developer. For avoidance of doubt, nothing in this Agreement amends the Original Development Agreement as it applies to redevelopment of the Town Property, as such capitalized term is defined in the Original Development Agreement.

(The remainder of this page has intentionally been left blank.)

IN WITNESS WHEREOF, the Town has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and Developer has caused these presents to be executed by its duly authorized officer, as of the date first above written.

TOWN OF FRISCO

(SEAL)

Attest:

Stacey Nell, Town Clerk

Frederick J. Ihnken, Mayor

STATE OF COLORADO)
) ss
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me as of the ____day of _____, 2024, by Frederick J. Ihnken, as Mayor, and Stacey Nell, as Town Clerk, of the Town of Frisco, a Colorado home rule municipal corporation.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

FRISCO COMMUNITY HOUSING
DEVELOPMENT AUTHORITY,
a Colorado body corporate and politic.

By: _____

Name: _____

Title: _____

STATE OF COLORADO)

) ss

COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me as of the _____ day of _____, 2024, by
_____, as _____ of the Frisco
Community Housing Development Authority, a Colorado body corporate and politic.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

DEVELOPER

THE NHP FOUNDATION

By:_____

Its:_____

STATE OF)
) ss
COUNTY OF)

The foregoing instrument was acknowledged before me as of the ____ day of
_____, 2024, by _____, as _____ of

WITNESS my hand and official seal.

Notary Public My Commission Expires:

DEVELOPER

NHPF WEST MAIN, LLC

By: _____

Its: _____

STATE OF)
) ss
COUNTY OF)

The foregoing instrument was acknowledged before me as of the ____ day of
_____, 2024, by _____, as _____ of

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit A

LEGAL DESCRIPTION OF DEVELOPER PROPERTY

Lot B-1, Amended West Frisco 70, Filing No. 2, according to the plat filed April 16, 1974 under reception no. 140796, County of Summit, State of Colorado.

Addressed as 101 West Main Street, Frisco, CO, 80443

29130257v2