

ASSIGNMENT AND SUBORDINATION OF PROPERTY MANAGEMENT AGREEMENT

This **ASSIGNMENT AND SUBORDINATION OF PROPERTY MANAGEMENT AGREEMENT** (this “**Assignment**”) is made as of [DATE], 2025 (“**Effective Date**”), by **NHPF GALENA, LLC**, a Colorado limited liability company (“**Borrower**”), to **TOWN OF FRISCO**, a Colorado home rule municipal corporation (the “**Lender**”).

RECITALS

A. Borrower has or will have, concurrently with the Effective Date (as defined in the Loan Agreement), a leasehold interest in that certain real property pursuant to the Ground Lease between Borrower and Lender dated [of even date herewith] (the “Ground Lease”) and improvements located in Summit County, Colorado, legally described on **Exhibit A** attached hereto and incorporated herein (the “**Land**”) and intends to acquire and construct a 54-unit affordable housing apartment project located thereon (the “**Project**”).

B. Lender is making a loan to Borrower in the original principal amount of Eight Million One Hundred Thousand and no/100 Dollars (\$8,100,000.00, the “**Loan**”).

C. Borrower’s obligations to repay the Loan is evidenced by a Promissory Note in the maximum principal amount of \$8,100,000 (the “**Note**”). In connection therewith, Borrower and Lender have entered into a Loan Agreement, dated as of the Effective Date (as the same from time to time may be amended, modified, extended, renewed or restated, the “**Loan Agreement**”).

D. Borrower has entered into that certain Management Agreement dated as of [DATE] (together with any and all extensions, modifications, addendums, amendments and renewals thereof, the “**Management Agreement**”), with [INSERT MANAGER] (the “**Manager**”), a true, complete and correct copy of which is attached hereto as **Exhibit C**.

E. As a condition to the making of the Loan to Borrower, Lender has required the collateral assignment of all of Borrower’s right, title, and interest in and to the Management Agreement as collateral security for the Loan.

AGREEMENT

NOW, THEREFORE, for and in consideration of the recitals set forth above and incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the performance of the covenants and agreements contained herein, Borrower hereby agrees as follows:

1. **Definitions.** All capitalized terms not otherwise defined herein shall have the meanings given to them in the Loan Agreement unless the context clearly indicates otherwise.
2. **Assignment.** Borrower hereby grants, transfers and assigns to Lender all the right, title and interest of Borrower in and to the Management Agreement. This Assignment is given for the purpose of securing the obligations of Borrower under the Loan.
3. **Obligations.** Borrower covenants, agrees and warrants unto Lender as follows:

3.1. Borrower shall faithfully abide by, perform and discharge each and every material obligation, covenant, condition and agreement of the Management Agreement to be performed by Borrower and to use all reasonable efforts to enforce (or cause to be enforced) performance by the Manager of each and every material obligation, covenant, condition and agreement to be performed by the Manager.

3.2. The occurrence of any of the following shall constitute an “Event of Default” under this Assignment:

3.2.1. a default by Borrower in the observance or performance of any material obligation, covenant, condition or agreement under this Assignment, which is not cured within thirty (30) days after the earlier of (i) the date on which Lender gives written notice to Borrower of such default, or (ii) the date on which Borrower has knowledge of the default, provided that, if cure cannot reasonably be effected within the 30-day period, the failure shall not be an Event of Default so long as Borrower promptly (in any event, within ten (10) days after receipt of the notice) commences cure, and thereafter diligently (in any event within ninety (90) days after receipt of the notice) prosecutes such cure to completion;

3.2.2. any covenant or agreement made in this Assignment is breached or any warranty or representation or warranty made in this Assignment proves to be materially false or inaccurate when made and such breach or false or inaccurate representation or warranty, if susceptible of being cured, is not cured within the period set forth in subsection (i) above; or

3.2.3. an “Event of Default” under the Loan Agreement or the loan documents listed therein.

Notwithstanding anything in this Assignment to the contrary, Lender agrees that any cure of an Event of Default, or of any act or failure to act which will, with the passage of time or otherwise, constitute an Event of Default, made or tendered by an entity with an ownership interest in Borrower shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

3.3. Any Event of Default under this Assignment, as provided above, shall be deemed to be an Event of Default (as defined in the Loan Agreement) under the Loan. Upon the occurrence of any Event of Default under the Loan Documents (as defined in the Loan Agreement) or this Assignment, Lender shall have the right, but not the obligation, without notice or demand on Borrower:

3.3.1 to declare all or a portion of the sums evidenced or secured by the Loan Documents (as defined in the Loan Agreement) and secured hereby immediately due and payable;

3.3.2 to exercise any and all rights and remedies provided under the Loan Documents or under this Assignment as well as such remedies as may be available at law or in equity, including, without limitation, all rights and remedies of a “secured party” under the Uniform Commercial Code in effect in the State of Colorado (the “**Commercial Code**”), and Borrower hereby waives all rights that may be legally waived and agrees that ten (10) days’ notice by Lender to Borrower is fair and commercially reasonable notification under the Commercial Code of any public sale of any of the collateral related to the Management Agreement or otherwise, and is also fair and reasonable notification after which any private sale or other disposition of the collateral can occur; and

3.3.3 to correct any such default in such manner and to such extent as Lender may deem necessary to protect the security hereof, including specifically, without limitation, the right (but not the obligation) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender, and also the right (but not the obligation) to perform and discharge each and every obligation, covenant, condition and agreement of Borrower under the Management Agreement,

and, in exercising any such powers, to pay necessary costs and expenses, employ counsel and incur and pay attorneys' fees and expenses (all of which payments, costs, expenses and fees shall be repaid to Lender by Borrower immediately upon demand with interest on all such amounts as defined in the Note).

3.4. Lender shall not be obligated to perform or discharge, nor does Lender undertake to perform or discharge, any obligation, duty or liability under the Management Agreement, by reason of this Assignment.

3.5. At any time after the occurrence of an Event of Default, Lender may, at its option, without notice, and without regard to the adequacy of security for the indebtedness hereby secured, either in person or by agent, with or without bringing any action or proceeding, or by a receiver to be appointed by a court at any time hereafter, enforce the Management Agreement for its own benefit. The exercise of any rights under this Assignment shall not be deemed to cure or waive any default under the Loan, or waive, modify or affect any notice of default under the Loan, or invalidate any act done pursuant to such notice.

3.6. The Manager, upon written notice from Lender of the occurrence of an Event of Default, shall be and is hereby authorized by Borrower to perform the Management Agreement for the benefit of Lender in accordance with the terms and conditions thereof without any obligation to determine whether or not such an Event of Default has in fact occurred.

3.7. In the exercise of the powers herein granted to Lender, no liability shall be asserted or enforced against Lender, all such liability being hereby expressly waived and released by Borrower. Borrower hereby agrees to indemnify and hold Lender, its successors and assigns, free and harmless from and against any and all liability, expense, cost, loss or damage which Lender may incur by reason of any act or omission of Borrower under the Management Agreement. Should Lender incur any liability, expense, cost, loss or damage (1) under the Management Agreement for which it is to be indemnified by Borrower as aforesaid, or (2) by reason of the exercise of Lender's rights hereunder (including, but not limited to, the exercise of the rights granted to Lender under Section 3), the amount thereof, including costs, expenses and attorneys' fees and expenses, shall be secured hereby and shall be due and payable immediately upon demand by Lender.

3.8. This Assignment shall be assignable by Lender to any assignee or successor of Lender under the Loan Agreement, and all representations, warranties, covenants, powers and rights contained in this Assignment shall be binding upon, and shall inure to the benefit of, Borrower, Lender and their respective legal representatives, successors and assigns.

4. **Representations, Warranties and Covenants.** Borrower hereby covenants, agrees and represents and warrants to Lender that:

4.1 the Management Agreement is in full force and effect;

4.2 Borrower has not previously assigned, sold, pledged, transferred, mortgaged, hypothecated or otherwise encumbered the Management Agreement, or its right, title and interest therein;

4.3 Borrower shall not assign, sell, pledge, transfer, mortgage, hypothecate or otherwise encumber its interests in the Management Agreement other than to Lender;

4.4 Borrower has not taken any action which might prevent Borrower from performing its undertakings hereunder or which might prevent Lender from operating under or enforcing any of the terms and conditions hereof or which would limit Lender in such operation or enforcement;

4.5 Borrower is not in default under the Management Agreement, and to the best knowledge of Borrower, no other party to the Management Agreement is in default thereunder; and

4.6 Borrower will not amend in any material respect or terminate the Management Agreement except as permitted by the Loan Agreement and the Deed of Trust (as defined in the Loan Agreement).

5. **Management Agreement; Consent.** Borrower will deliver a copy of the Management Agreement to Lender and will require the Manager to execute and deliver to Lender a consent to this Assignment, such consent to be substantially identical to the form of Subordination Agreement and Consent to Assignment attached hereto as **Exhibit B**.

6. **Termination.** This Assignment is made for collateral purposes only and the duties and obligations of Borrower under this Assignment shall terminate when all sums due under the Loan are paid in full and all obligations, covenants, conditions and agreements of Borrower are performed and discharged.

7. **Governing Law.** This Assignment shall be governed by and construed in accordance with the internal substantive laws of the State of Colorado.

8. **No Third Party Beneficiaries.** It is expressly intended, understood and agreed that this Assignment and the Loan are made and entered into for the sole protection and benefit of Borrower and Lender, and their respective successors and assigns (to the extent permitted hereunder), and that no other person or persons shall have any right at any time to action hereon.

9. **Waiver; Amendment.** This Assignment cannot be waived, amended or modified unless such waiver, amendment or modification is in writing and executed by Borrower and Lender and consented to by Manager. No failure or delay on the part of Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies hereunder are cumulative and may be exercised by Lender either independently of or concurrently with any other right, power or remedy contained herein or in any document or instrument executed in connection with the Note.

10. **No Partnership or Joint Venture.** Nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or as causing the parties to have any other relationship other than lender and borrower.

11. **Severability.** Borrower intends and believes that each provision in this Assignment comports with all applicable local, state or federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Assignment is/are found by a court of competent jurisdiction to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision or public policy, and if such court should declare such portion, provision or provisions of this Assignment to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of Borrower that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Assignment shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein and that the rights, obligations and interests of Borrower and Lender under the remainder of this Assignment shall continue in full force and effect.

12. **Management Agreement Termination.** Irrespective of whether or not any termination is expressly provided for under the Management Agreement, Borrower shall not suffer or permit any

If to Lender: Town of Frisco
P.O. Box 4100 (Mailing)
1 East Main Street (Physical)
Frisco, Colorado 80443
Attention: Community Development Director

With a copy to: Thad W. Renaud
Murray Dahl Berry & Renaud LLP
710 Kipling Street, Suite 300
Lakewood, CO 80215

15. **Consent to Jurisdiction and Venue.** BORROWER AGREES THAT ANY CONTROVERSY ARISING UNDER OR IN RELATION TO THIS ASSIGNMENT SHALL BE LITIGATED EXCLUSIVELY IN COLORADO. THE STATE AND FEDERAL COURTS AND AUTHORITIES SITTING IN THE COUNTY OF SUMMIT, COLORADO, SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL CONTROVERSIES WHICH SHALL ARISE UNDER OR IN RELATION TO THIS ASSIGNMENT. BORROWER IRREVOCABLY CONSENTS TO SERVICE, JURISDICTION, AND VENUE OF SUCH COURTS FOR ANY SUCH LITIGATION AND WAIVES ANY OTHER VENUE TO WHICH IT MIGHT BE ENTITLED BY VIRTUE OF DOMICILE, HABITUAL RESIDENCE OR OTHERWISE. HOWEVER, NOTHING HEREIN IS INTENDED TO LIMIT LENDER'S RIGHT TO BRING ANY SUIT, ACTION OR PROCEEDING RELATING TO MATTERS ARISING UNDER THIS ASSIGNMENT AGAINST BORROWER OR ANY OF BORROWER'S ASSETS IN ANY COURT OF ANY OTHER JURISDICTION.

16. **Waiver of Jury Trial.** EACH PARTY TO THIS ASSIGNMENT, FOR ITSELF, AND FOR ALL WHO MAY CLAIM THROUGH OR UNDER IT VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO TRIAL BY JURY ON ANY ISSUE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN OR AMONG THE PARTIES HERETO ARISING OUT OF OR IN ANY WAY RELATED TO THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE OTHER LOAN DOCUMENTS.

17. **Costs.** The Borrower hereby agrees to pay all reasonable and documented out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) which the Lender may incur in exercising any of its rights under this Assignment.

18. **Successors and Assigns.** This Assignment shall be binding upon the Borrower, its successors and assigns, and shall inure to the benefit of the Lender, its successors and assigns.

19. **Further Assurances.** Borrower agrees that it will cooperate with Lender and take such actions and execute and deliver, or cause to be executed and delivered, such other instruments and documents as Lender may reasonably request from time to time in order to carry out the provisions and purposes of this Assignment.

20. **Counterparts.** This Assignment and the Subordination Agreement and Consent to Assignment attached hereto may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same document. To facilitate execution of this Assignment, the parties may execute and exchange counterparts of the signature pages by electronic mail. If transmitted by electronic mail, then this Assignment will be treated in all manners and respects as an original document, and the signature of any party thereon will be considered an original signature. Any document transmitted by electronic mail will be considered to have the same binding legal effect as an original of such document.

At the request of either party hereto, a document transmitted by electronic mail will be re-executed by the parties in the original form thereof. A copy of this Assignment or any other writing required under this Assignment that is executed by electronic signature in compliance with the laws of the State of Colorado will be deemed as binding upon the maker as any signature or mark made by ink or otherwise.

[SIGNATURE PAGE FOLLOWS]

Borrower has executed and delivered this Assignment as of the date first written above.

BORROWER:

NHPF GALENA, LLC,
a Colorado limited liability company

By: The NHP Foundation,
a District of Columbia non-profit corporation
Its: Managing Member

By: _____
Name: Neal Drobenare
Its: Senior Vice President

[Signature Page to Assignment of Property Management Agreement]

EXHIBIT A

LEGAL DESCRIPTION

The leasehold interest pursuant to the Ground Lease in that certain property described as follows:

Lots 13,14,15,16,17,18,19,20 and 21, Block 3, Frisco Town Subdivision, County of Summit, State of Colorado.

Addressed as 602 Galena Street, Frisco, CO, 80443

EXHIBIT B

SUBORDINATION AGREEMENT AND CONSENT TO ASSIGNMENT (MANAGER)

This **SUBORDINATION AGREEMENT AND CONSENT TO ASSIGNMENT** (this “**Consent**”) is made by [INSERT] (the “**Manager**”). The Manager is the manager under that certain Management Agreement dated [DATE], between Manager and **NHPF GALENA, LLC**, a Colorado limited liability company (“**Borrower**”) (the “**Agreement**”). All terms defined in that certain Assignment of Property Management Agreement made by Borrower in favor of the **TOWN OF FRISCO**, a Colorado home rule municipal corporation (“**Lender**”), dated as of [DATE], 2025 (the “**Assignment**”), are used in this Consent with the same meanings. In consideration of the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and as an inducement to Lender to make the Loan to Borrower, and with the knowledge that Lender intends to rely upon the truth and accuracy of the statements made in this Consent, Manager hereby agrees as follows:

1. Manager has received a copy of and hereby consent to the foregoing Assignment and agree to the terms thereof, conditional upon the terms set forth therein notwithstanding any contrary terms in the Agreement. We hereby certify that the Agreement has not been changed, modified, transferred or assigned and is in full force and effect.

2. Notwithstanding any counterclaim, right of set-off, defense or claim Manager may have against Borrower or any contrary instruction, direction or request from Borrower, Manager agrees that in the event of any Event of Default by Borrower under any Loan Document or under any of the other documents executed by Borrower in connection therewith, Manager shall, at Lender’s written request, continue performance on Lender’s behalf under the Agreement in accordance with the terms thereof, and that Lender shall have the same rights as Borrower under and pursuant to such Agreement, all without the payment to Manager of any additional compensation other than as specifically set forth in the Agreement. It is expressly understood that Lender neither assumes the Agreement nor has any obligation to Manager to exercise such rights or to declare an Event of Default under the Loan Documents, but that the option to exercise such rights or declare an Event of Default under the Loan Documents rests in the sole and absolute discretion of Lender.

3. As of the date of this Consent, Manager represents and warrants that it has no counterclaim, right of set-off, defense or like right against Borrower or Lender. Manager represents that the Agreement has not been assigned, pledged, or modified in any respect. Manager agrees to make no amendments to the Agreement without the prior written consent of Lender. Manager has no ownership interest of or lien on the Project other than the right to manage the Project pursuant to the Agreement.

4. Manager acknowledges and agrees that Lender may assign the Assignment to any successors and assigns, and that this Consent shall be binding upon Manager without the need for any additional consent or agreement with such successor or assign. Manager further agrees to provide an estoppel letter to any such successor or assign within thirty (30) days after the request therefor from Lender, stating that (except as disclosed therein) the Agreement is in full force and effect and has not been amended or modified, and that neither Borrower (to the best of Manager’s knowledge) nor Manager are in default thereunder.

5. Upon the occurrence of any breach of the Agreement by Borrower or any receipt by Manager of notice of any claimed breach by Manager of the Agreement, Manager shall notify Lender in writing of each such claimed breach. Manager shall accept a cure by Lender of any such breach within the time period provided for cure in the Agreement on the same terms as if tendered by Borrower.

6. Payment of any amounts due to Manager under the Agreement (the “**Management Fee**”) shall be subordinate to the payment of all principal, interest and other amounts payable to Lender under the Loan Agreement and the Note. In addition, any lien that Manager may now be entitled to or hereafter acquire as a result of non-payment of its portion of the Management Fee shall be subordinate to the lien of any mortgage or deed of trust from Borrower in favor of Lender and any other documents or agreements securing the Loan Agreement or the Note.

7. All notices, demands or documents which are required or permitted to be given or served upon Manager or Lender shall be deemed to have been properly given if sent by overnight courier (effective one day after delivery to such courier), hand delivered (effective upon delivery) or, if mailed by United States registered or certified mail, postage prepaid, return receipt requested (effective three days after mailing), addressed as follows:

If to Manager:	[INSERT]
If to Borrower:	c/o The NHP Foundation 1090 Vermont Avenue, NW, Suite 400 Washington, DC 20005 Attn: Neal Drobenare, Senior Vice President
With a copy to:	Ben Doyle, Esq. New Communities Law PLLC 1919 14 th Street Suite 700 Boulder, CO 80302
If to Lender:	Town of Frisco P.O. Box 4100 (Mailing) 1 East Main Street (Physical) Frisco, Colorado 80443 Attention: Community Development Director
With a copy to:	Thad W. Renaud Murray Dahl Berry & Renaud LLP 710 Kipling Street, Suite 300 Lakewood, CO 80215

8. The provisions of this Consent cannot be waived, modified or amended unless such waiver, modification or amendment is in writing and is executed on behalf of each of Lender and Manager. In the event of any conflict between the terms or provisions of this Consent and the terms or provisions of the Agreement or the Assignment, the terms and provisions of this Consent shall govern and control. No failure or delay on the part of Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Manager agrees that it shall not resign under the Agreement without first providing written notice to Lender at least ninety (90) days in advance of such resignation; provided that in the event of a monetary default by Borrower under the Agreement, only thirty (30) days advance written notice shall be required. Manager acknowledges that Lender has the right to terminate the Agreement for cause. Manager agrees to provide prompt written notice of any significant change in Manager's financial status to Lender.

10. In furtherance of the subordination described in Section 6, Manager agrees that if an Event of Default shall have occurred and be continuing under either Loan Agreement (a) no portion of the Management Fee shall be paid by Borrower to Manager, (b) any portion of the Management Fee that is inadvertently (or otherwise) paid by Borrower to Manager shall be held in trust for the benefit of Lender and shall be promptly paid over to Lender, (c) Manager will continue to perform its obligations under the Agreement even though the Management Fee has not been paid, and (d) no action, legal or otherwise, will be commenced by Manager to collect the Management Fee.

11. Manager agrees that Lender or anyone succeeding to the interest of Borrower in the Land and any other collateral for the Loan by foreclosure, deed in lieu of foreclosure, or voluntary transfer, shall be entitled to terminate the Agreement without prior notice to Manager and without any liability whatsoever to Manager as specified under the Agreement. Unless Lender or a successor in interest to Borrower has executed a written assumption agreement agreeing to be bound by the terms of the Agreement, neither Lender nor any other successor in interest to Borrower shall have any liability whatsoever to Manager under the Agreement, and Manager shall make no claim against the Project or any other collateral for the Loan arising out of the Agreement.

The Manager has executed and delivered this Consent as of [DATE], 2025.

[SIGNATURE PAGE FOLLOWS]

MANAGER:

[INSERT]

By: _____
Name: _____
Its: _____

[Signature Page to Subordination Agreement and Consent to Assignment]

EXHIBIT C

Management Agreement

[See attached]

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