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MICHAEL B. BROWN  
RECORDER

**DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration") is made and entered into as of this 20<sup>th</sup> day of October, 2015 by and between **THE HOUSING AUTHORITY OF THE CITY OF HAMMOND OF LAKE COUNTY, INDIANA** (the "Authority"), a public body corporate and politic, organized and existing under the laws of Indiana, and **FLAGSTONE VILLAGE LLC** (the "Owner"), an Indiana limited liability company, for the benefit of the **UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT** ("HUD").

WHEREAS, pursuant to the U.S. Housing Act of 1937, as amended, and any successor legislation (the "Act") the Authority and HUD have entered into a Consolidated Annual Contributions Contract ("ACC") number: C-918, dated February 16, 1996, as the same may be amended from time to time, which provides for grants and annual contributions to be made by HUD to assist the Authority in developing, maintaining, and operating its public housing units in accordance with all applicable public housing requirements (as further defined below);

WHEREAS, as of the date of execution of this Declaration, HUD and the Authority have entered into a certain Mixed Finance Amendment, Amendment No. 22 to the ACC ("Mixed Finance ACC Amendment"), adding the fifteen (15) public housing units and any associated appurtenances to the ACC under project number IN01000005 in the City of Hammond, County of Lake, in the State of Indiana (which, together with any fixtures, rents, revenues, other income, and personalty related to such units and appurtenances shall hereafter collectively be referred to as the "Project"). The Project is part of a larger development known as Flagstone Village (the "Development");

WHEREAS, the Authority and the Owner have entered into a Regulatory and Operating Agreement, and other Agreements, whereby the Authority has agreed to provide the Owner with assistance obtained under the Mixed Finance ACC Amendment to pay a portion of the development costs of the Project, and with Operating Fund assistance to assist in operating and maintaining the low income character of the public housing units in the Project;

WHEREAS, in return for the receipt of such assistance, the Owner has agreed to develop, operate and maintain the Project in accordance with all requirements applicable to public housing, including, without limitation, the Act, HUD regulations thereunder (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the ACC, the Mixed Finance ACC Amendment, the HOPE VI Grant Agreement (if applicable), this Declaration, and all pertinent Federal statutory, executive order, and regulatory requirements, as those requirements may be amended from time to time (all such requirements hereafter collectively referred to as the "Applicable Public Housing Requirements"); and

NO SALES DISCLOSURE NEEDED

KH 348989 Approved Assessor's Office

By: SM



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LAKE COUNTY RECORDER  
MICHAEL B. PETALAS  
LAKE COUNTY AUDITOR

WHEREAS, as of the date of execution of this Declaration, title to the Development is held by the Authority. The Authority has entered into a ground lease with the Owner for the site on which the Development is to be developed, and on which the Owner will construct and operate the Project.

NOW, THEREFORE, to assure HUD of the performance by the Authority and the Owner, and any successors in interest to the Authority and Owner, of the Applicable Public Housing Requirements in connection with the development, operation and maintenance of the Project for the term of the low income use restrictions, the parties hereby acknowledge and agree:

1. The Authority does hereby acknowledge and declare that it is possessed of and holds title to the Development consisting of the real property situated in the City of Hammond, County of Lake, in the State of Indiana, as more fully described in Exhibit A to this Declaration, and which is made a part hereof;
2. The Authority does hereby acknowledge and declare that it is possessed of and holds title to that portion of the Development comprising the Project in trust for the benefit of HUD, for the purposes hereinafter stated;
3. The Owner is possessed of and holds in trust for the benefit of HUD, for the purposes hereinafter stated, a leasehold interest in the Project and all buildings and fixtures developed or to be developed thereon or appurtenant thereto, and including all personalty.
4. The Owner and Authority hereby declare and acknowledge that during the existence of the trust hereby created, the restrictive covenants set forth in this Declaration shall be, and are, covenants running with the Development for the period of the low income use restrictions, and are binding upon the Owner and the Authority, and their successors and assigns, for such term;
5. The Authority shall cause the Owner to, and the Owner shall, develop the Project in compliance with the Applicable Public Housing Requirements, and shall thereafter operate and maintain the Project in compliance with the Applicable Public Housing Requirements for a 40-year period that begins on the date on which the Project (or stage of the Project) becomes available for occupancy, or for such other period as may be required by law. Such 40-year period shall be extended for 10 years after the end of the last PHA fiscal year for which Operating Fund assistance is provided by the Authority on behalf of the Project, or as may be otherwise required by law.
6. The Owner shall remain seized of title to the Development and shall refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer of any kind of the Project, or any part thereof, or any rent, revenues, income, or receipts of the Project in connection therewith, or any of the benefits or contributions granted to it by or pursuant to the ACC, as amended, or any interest in any of the same, except to the extent approved in writing by HUD, as otherwise authorized by the ACC, as amended, or as authorized below:
  - A. Deeds of trust and financing arrangements approved in writing by HUD under the terms of the Mixed Finance ACC Amendment, and transfer of the Development to the beneficiary under any such approved loans, by foreclosure or deed-in-lieu of foreclosure, or to a third-party purchaser at a foreclosure sale, provided that any such transfer shall be subject to the terms of this Declaration;

- B. Dwelling leases with eligible families in the Project;
  - C. Conveyance or dedication of land for use as streets, alleys, or other public rights-of-way, and grants and easements for the establishment, operation, and maintenance of public utilities; and
  - D. Normal uses associated with the operation of the Project, to the extent authorized by the ACC.
7. (A) No transfer, conveyance, or assignment shall be made without the prior written approval of HUD of: (i) any interest of a managing member, general partner, or controlling stockholder (any such interest being referred to as a “Controlling Interest”) of the Owner; or (ii) a Controlling Interest in any entity which has a Controlling Interest in the Owner; or (iii) prior to the payment in full of all equity contributions described in the approved evidentiary documents listed in the Mixed Finance ACC Amendment, any other interest in the Owner, or in any partner or member thereof.
- (B) Notwithstanding the foregoing, HUD consent is not required where a business organization that has a limited interest (non-controlling and non-managing) in the Owner transfers a non-controlling and non-managing interest in the business organization provided that the Owner: (i) provides HUD with written notice of such transfer; and (ii) certifies to HUD that the new owner of the limited interest remains obligated to fund its equity contribution in accordance with the terms of the HUD-approved organizational documents of the Owner.
- (C) HUD will not unreasonably withhold, delay, or condition a request by the Owner for HUD’s consent to an internal reorganization of the corporate or partnership structure of the Owner or any of the partners, members, or stockholders of the Owner.
8. This Declaration shall not be amended, modified or released without the prior written consent of HUD.
9. Upon expiration of the period during which the Project is required to be operated and maintained as public housing in accordance with the Applicable Public Housing Requirements, HUD will release this Declaration by an instrument to be recorded in the appropriate land records (the “Release”). The Release shall be prepared by the Owner and recorded at the Owner’s expense.
10. The Rider 1 attached hereto is incorporated into and made part of this Declaration.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



IN WITNESS WHEREOF, the Authority and the Owner have caused this Declaration to be executed by their duly authorized officers for proper recording in the public records.

THE HOUSING AUTHORITY OF THE CITY OF HAMMOND OF LAKE COUNTY, INDIANA, a public body corporate and politic, organized and existing under the laws of Indiana

By:   
Maria Carmen Paniagua, Executive Director

FLAGSTONE VILLAGE LLC, an Indiana limited liability company

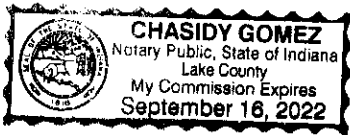
By: HEH Flagstone Inc., an Indiana corporation, its  
Managing Member



State of Indiana )  
 ) ss:  
County of Lake )

Before me, a Notary Public in and for said County and State, personally appeared Maria Carmen Paniagua, Executive Director of the Housing Authority of the City of Hammond of Lake County, Indiana, who acknowledged execution of the foregoing deed for and on behalf of said Authority.

Witness my hand and notarial seal this 6<sup>th</sup> day of October, 2015.



[Signature]  
Signature  
Chasidy Gomez  
Printed  
Notary Public  
My Commission Expires: Sept. 16, 2022  
My County of Residence: Lake

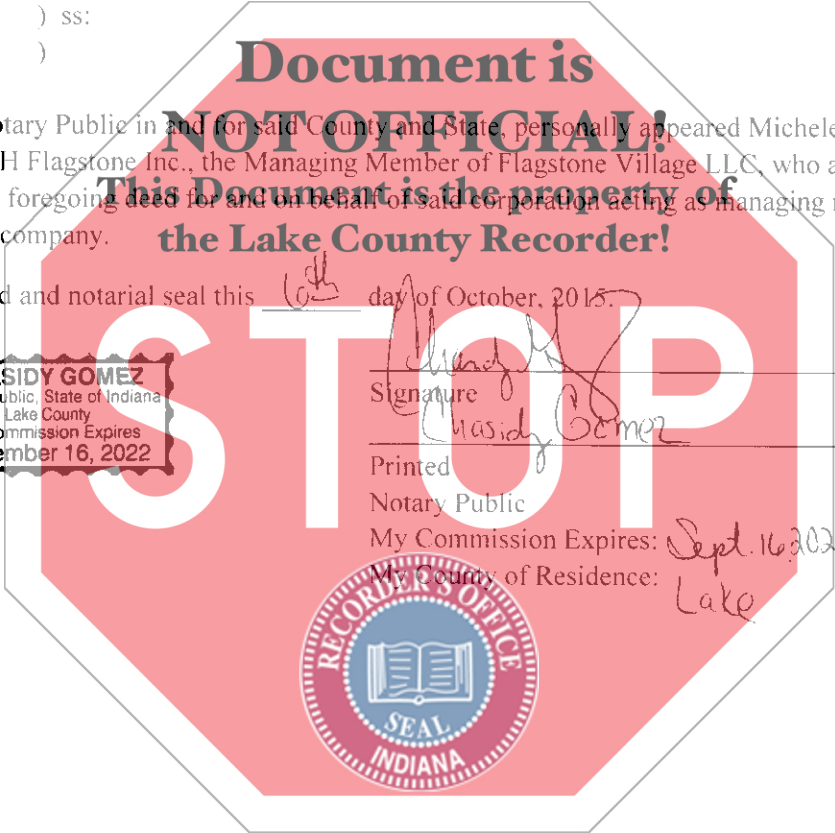
State of Indiana )  
 ) ss:  
County of Lake )

Before me, a Notary Public in and for said County and State, personally appeared Michele Seljan, Secretary of HEH Flagstone Inc., the Managing Member of Flagstone Village LLC, who acknowledged execution of the foregoing deed for and on behalf of said corporation acting as managing member of said limited liability company.

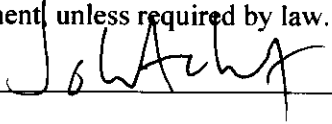
Witness my hand and notarial seal this 6<sup>th</sup> day of October, 2015.



[Signature]  
Signature  
Chasidy Gomez  
Printed  
Notary Public  
My Commission Expires: Sept. 16, 2022  
My County of Residence: Lake



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

  
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This instrument was prepared by:

John Achatz, Esq.

Klein Hornig LLP

101 Arch Street, Suite 1101

Boston, MA 02110



Exhibit A

**Description of Property**

PARCEL 1:

A PARCEL OF LAND LYING IN ITS ENTIRETY IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 9 WEST, OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, BEING A PART OF A PARCEL DESCRIBED IN DEED RECORD 31116, BOOK 640 PAGES 325-327 OF THE LAKE COUNTY RECORDER'S OFFICE, BEING BOUND BY THE DEDICATED RIGHTS OF WAY OF WILSON PLACE, FREEDOM AVENUE, SAXONY STREET, 174TH PLACE, LINDEN PLACE, AND 173RD PLACE AS DEDICATED IN COLUMBIA CENTER (A PLANNED UNIT DEVELOPMENT) ADDITION TO THE CITY OF HAMMOND UNIT 3 AND LOT 2 UNIT 2 AS RECORDED IN THE LAKE COUNTY RECORDER'S OFFICE IN PLAT BOOK 104 PAGE 41 AND IN PLAT BOOK 102 PAGE 28; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 9 WEST; THENCE NORTH 89°27'38" EAST ALONG SAID NORTH LINE OF SAID SECTION, A DISTANCE OF 548.07 FEET TO THE EXTENDED WEST RIGHT OF WAY OF WILSON AVENUE AS DEDICATED IN COLUMBIA CENTER (A PLANNED UNIT DEVELOPMENT) ADDITION TO THE CITY OF HAMMOND UNIT 3 AS RECORDED IN THE LAKE COUNTY RECORDER'S OFFICE IN PLAT BOOK 104 PAGE 41; THENCE SOUTH 00°30'26" EAST ALONG THE SAID EXTENDED RIGHT OF WAY A DISTANCE OF 42.13 FEET TO THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 173RD AVENUE AND WEST RIGHT OF WAY LINE OF WILSON AVENUE; THENCE CONTINUING SOUTH 00°30'26" EAST ALONG THE SAID WESTERN RIGHT OF WAY OF WILSON AVENUE 214.63 FEET TO ITS INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF 173RD PLACE THE BEGINNING OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 120.00 FEET, A CHORD WHICH BEARS SOUTH 22°19'40" EAST, 92.79 FEET, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE SOUTHERLY ALONG SAID CURVE AND ALONG THE WEST RIGHT OF WAY LINE OF WILSON PLACE, 95.27 FEET; THENCE SOUTH 45°04'17" EAST ALONG SAID RIGHT OF WAY, 551.10 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 130.00 FEET, A CHORD WHICH BEARS SOUTH 67°24'22" EAST, 98.80 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE 101.35 FEET; THENCE SOUTH 89°44'27" EAST, 3.83 FEET TO THE WEST RIGHT OF WAY LINE OF FREEDOM AVENUE ALSO DESCRIBED IN SAID COLUMBIA CENTER (A PLANNED UNIT DEVELOPMENT) ADDITION TO THE CITY OF HAMMOND UNIT 3; THENCE ALONG SAID WEST RIGHT OF WAY SOUTH 00°15'33" WEST, 118.06 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 187.19 FEET, AND A CHORD WHICH BEARS SOUTH 09°27'20" WEST, 64.25 FEET; THENCE SOUTHERLY ALONG SAID CURVE 64.58 FEET TO THE NORTH AND WEST CORNER OF THE RIGHT OF WAY OF SAXONY STREET AS DEDICATED IN COLUMBIA CENTER (A PLANNED UNIT DEVELOPMENT) ADDITION TO THE CITY OF HAMMOND LOT 2 UNIT 2 AS RECORDED IN THE LAKE COUNTY RECORDER'S OFFICE IN PLAT BOOK 102 PAGE 28 AND TO A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 187.33 FEET WITH A CHORD THAT BEARS SOUTH 54°25'01" WEST, 215.06 FEET; THENCE SOUTHERLY ALONG SAID CURVE BEING THE NORTHERN AND WESTERN RIGHT OF WAY OF SAXONY STREET A DISTANCE OF 229.06 FEET; THENCE SOUTH 89°27'49" WEST ALONG SAID RIGHT OF WAY LINE, 113.45 FEET TO THE EAST RIGHT OF WAY LINE OF 174TH PLACE AS DEDICATED IN SAID UNIT 3 PLAT (PB

104 PG 41); THENCE NORTH 46°03'02" WEST ALONG SAID EAST RIGHT OF WAY, 17.10 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 128.38 FEET AND A CHORD WHICH BEARS NORTH 24°28'58" WEST, 89.07 FEET; THENCE NORTHERLY ALONG SAID CURVE, 90.96 FEET; THENCE NORTH 45°05'09" WEST ALONG SAID 174TH RIGHT OF WAY LINE 546.42 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING RADIUS OF 123.82 FEET AND A CHORD WHICH BEARS NORTH 65°31'11" WEST, 83.94 FEET; THENCE ALONG SAID CURVE 85.64 FEET; THENCE NORTH 41°51'26" WEST, 16.59 FEET TO THE SOUTHEASTERN RIGHT OF WAY OF LINDEN PLACE AS DEDICATED IN SAID UNIT 3 PLAT (PB 104 PG 41) AND TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST WITH A RADIUS OF 332.71 FEET AND A CHORD THAT BEARS NORTH 44°49'17" EAST, 422.28 FEET; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE OF 174TH PLACE AND THE SOUTH RIGHT OF WAY LINE OF 173RD PLACE AND ALONG SAID CURVE 457.48 FEET; THENCE SOUTH 46°49'00" EAST 6.63 FEET TO THE POINT OF BEGINNING, CONTAINING 7.57 ACRES MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS.

The following is a modernized version of the above legal description as shown on the survey prepared by Jones Petrie Rafinski dated August 12, 2015 and last revised August 14, 2015 as Job No. 2015-0074:

A parcel of land located in the Northwest Quarter of the Northeast Quarter of Section 18, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, Lake County, Indiana and being particularly described as follows: Commencing at the northwest corner of the Northeast Quarter of said Section; thence North 89 degrees 27 minutes 38 seconds East along the north line of said Section a distance of 548.07 feet; thence South 0 degrees 30 minutes 26 seconds East a distance of 42.23 feet to the intersection of the south right of way line of 173rd Street said west right of way line of Wilson Avenue as dedicated per the Columbia Center (A Planned Unit Development) Addition to the City of Hammond Unit 3, the plat of which is recorded in Plat Book 104, Page 41 in the Office of the Recorder, Lake County, Indiana; thence South 0 degrees 29 minutes 59 seconds East along said west right of way line and the southerly prolongation of said west right of way line a distance of 214.62 feet to its intersection with the south right of way line of 173rd Place and being the point of beginning of this description; thence southerly along the west right of way line of Wilson Place 95.21 feet along a non-tangent arc to the left having a radius of 120.00 feet and subtended by a long chord having a bearing of South 22 degrees 20 minutes 47 seconds East and a length of 92.73 feet; thence South 45 degrees 04 minutes 34 seconds East along said west right of way line a distance of 551.02 feet; thence southeasterly 101.37 feet along said right of way line along an arc to the left having a radius of 130.00 feet and subtended by a long chord having a bearing of South 67 degrees 17 minutes 57 seconds East and a length of 98.82 feet; thence South 89 degrees 52 minutes 09 seconds East along said right of way a distance of 3.86 feet to the west right of way line of Freedom Avenue; thence South 0 degrees 16 minutes 47 seconds West along said west right of way line a distance of 117.99 feet to the west and north right of way line of Saxony Street; thence southerly along said west right of way line 64.57 feet along an arc to the right having a radius of 187.10 feet and subtended by a long chord having a bearing of South 09 degrees 26 minutes 16 seconds West and a length of 64.25 feet; thence continuing along said right of way line southwesterly 229.11 feet along an arc to the right having a radius of 187.10 feet and subtended by a long chord having a bearing of South 54 degrees 24 minutes 35 seconds West and a length of 215.06 feet; thence South 89 degrees 22 minutes 58 seconds West along the north right of way line of Saxony Street a distance of 113.45 feet to the east right of way line of 174th Place as dedicated in said Unit 3 Plat (Plat Book 104, Page 41); thence North 45 degrees 59 minutes 03 seconds West along said east right of way line a distance of 17.06 feet; thence northerly 90.99 feet along said east right of way line along a non-tangent arc to the left having a radius of 128.38 feet and subtended by a long chord having a bearing of North 24 degrees 29 minutes 10 seconds West and a length of 89.10 feet; thence North 45 degrees 04



minutes 35 seconds West along said east right of way line a distance of 546.38 feet; thence northwesterly along said east right of way line 85.68 feet along an arc to the left having a radius of 123.82 feet and subtended by a long chord having a bearing of North 65 degrees 31 minutes 53 seconds West and a length of 83.98 feet; thence North 41 degrees 35 minutes 16 seconds West along said east right of way line a distance of 16.59 feet to the southeastern right of way line of Linden Place as dedicated in said Unit 3 Plat (Plat Book 104, Page 41); thence northeasterly along said southeastern right of way line and the southeastern right of way line of 173rd Place 457.46 feet along a non-tangent arc to the right having a radius of 332.71 feet and subtended by a long chord having a bearing of North 44 degrees 50 minutes 15 seconds East and a length of 422.27 feet; thence South 45 degrees 59 minutes 51 seconds East 6.63 feet to the point of beginning and containing 7.57 acres, more or less.

**PARCEL 2:**

ALL OF LOT 6A IN THE COLUMBIA CENTER (A PLANNED UNIT DEVELOPMENT) ADDITION TO THE CITY OF HAMMOND UNIT 3 AS RECORDED IN THE LAKE COUNTY RECORDER'S OFFICE IN PLAT BOOK 104 PAGE 41. LYING IN ITS ENTIRETY IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 9 WEST, OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, CONTAINING 2.66 ACRES MORE OR LESS.



## RIDER TO DECLARATION OF RESTRICTIVE COVENANTS

### Flagstone Village

This Rider to Declaration of Restrictive Covenants (the "Declaration") to which it is attached and incorporated made by and between the Housing Authority of the City of Hammond of Lake County, Indiana (the "Authority") and Flagstone Village LLC (the "Owner") in favor of the United States Department of Housing and Urban Development (the "HUD"). All capitalized terms shall have the meanings given in said Declaration.

HUD has agreed to the following modifications to the Declaration:

1. Paragraph 7(A) of the Declaration is replaced in its entirety with the following: "No transfer, conveyance, or assignment shall be made without the prior written approval of HUD (which shall not be unreasonably withheld, conditioned or delayed) of: (i) any interest of a managing member, general partner, or controlling stockholder (any such interest being referred to as a Controlling Interest) of the Owner; or (ii) a Controlling Interest in any entity which has a Controlling Interest in the Owner; or (iii) prior to the payment in full of all equity contributions described in the approved evidentiary documents listed in the Mixed Finance ACC Amendment, any other interest in the Owner, or in any partner, member or shareholder thereof. The term "Controlling Interest" as used in this paragraph shall not include any interest, no matter how large, of a limited partner in a limited partnership or of a limited liability company member that is not a manager or managing member of such limited liability company. A "Non-Controlling Interest" is an interest that is not a Controlling Interest."
2. Paragraph 7(B) of the Declaration is hereby replaced in its entirety with the language: "Notwithstanding the foregoing, HUD consent is not required where a business organization that owns a Non-Controlling Interest in the Owner or any interest in an entity that owns a Non-Controlling Interest in the Owner, as applicable, transfers, assigns, or conveys all or a portion of such interest: (A) in the Owner; or (B) in the entity; provided that the Owner: (i) provides HUD with written notice of such transfer; and (ii) certifies to HUD that the new owner of the limited interest remains obligated to fund its equity contribution in accordance with the terms of the HUD-approved organizational documents of the Owner."
3. A new Paragraph 7(D) is hereby added to the Declaration as follows: "(D) Notwithstanding the foregoing, HUD consent shall not be required for the exercise by any investor limited partner or member of the Owner (an "Investor") of its right pursuant to the limited partnership agreement of the Owner (the "Partnership Agreement") to remove the general partner of the Owner and appoint the Investor or an affiliate thereof as interim general partner of Owner so long as the Investor gives prompt written notice to HUD of such removal and appointment; provided that HUD consent shall be required for the appointment of such interim general partner to extend beyond a ninety (90) day period and for the appointment of any entity (including the Investor or an affiliate thereof) as the permanent replacement general partner, and HUD consent shall be required for the appointment of any general partner that is not the Investor or an affiliate thereof."
4. A new Paragraph 7(E) is hereby added to the Declaration as follows: "(E) The consent of HUD shall not be required for any exercise by the Investor of its right to enforce the repurchase requirements of the Partnership Agreement so long as the Investor gives prompt written notice to HUD of such exercise."

5. A new Paragraph 7(D) is hereby added to the Declaration as follows: "HUD is deemed to have consented to the modification or amendment of the Partnership Agreement to memorialize any transfer, assignment or conveyance otherwise authorized or consented to in this Section 7 or otherwise approved by HUD."

