



## COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. The first meeting of every month is at 9:30AM while the second meeting of every month takes place at 5:30PM. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 11/14/2024 Meeting Date: 11/21/2024

Department: BCC Administration

### 1. Nature and purpose of agenda item:

Previously, the Board of County Commissioners approved \$500,000 to support affordable housing and the Sweetwater Apartments project. The Board also authorized the project to utilize additional funds from a HHRP Grant. These are the documents needed to approve for the project to move forward. These funds will be provided to the Developer as a loan

### 2. Recommended Motion/Action:

Approve Loan Documents for the Sweetwater Apartment Projects

### 3. Fiscal impact on current budget.

This item has no effect on the current budget.

**PROMISSORY NOTE**

**General Revenue Funds  
Sweetwater Housing**

Folio Number:

Property Address:

Legal Description: See Exhibit "A":

Date: \_\_\_\_\_, 2024

Amount: **\$500,000**

**FOR VALUE RECEIVED**, the undersigned, hereinafter referred to as "Borrower," promises to pay to the order of Columbia County, a political subdivision of the State of Florida, hereinafter referred to as "Lender", or its successors, the sum FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000) (hereinafter referred to as the "Note"). This Note is given by the Borrower pursuant to that certain General Revenue and HHRP Funding Agreement, dated \_\_\_\_\_, 2024, by and between Borrower and Lender (the "Agreement")

**1. LOAN PAYMENT:**

a. Borrower shall promptly pay the principal of the indebtedness evidenced by this Note, and all other charges and indebtedness provided herein and in the Mortgage entered into on date even herewith by the Borrower in favor of Lender (the "Mortgage"), at the times and in the manner provided in this Note and in the Mortgage. The Note shall not bear interest.

b. Payment of any principal and interest accrued, if any, shall be due in full on \_\_\_\_\_, **2044**, (hereinafter referred to as the "Loan Term").

**2. DEFAULT & ACCELERATION:**

a. If prior to the expiration of the Loan Term (a) the Property is sold, mortgaged, lien, refinanced, foreclosed upon or otherwise transferred by Borrower in breach of the Mortgage or (b) the Borrower does not materially comply with the terms noted in the Agreement, the Mortgage or that certain Declaration of Covenants and Restrictions, dated \_\_\_\_\_, 2024, by Borrower and Lender (the "LURA") taking into account applicable notice and cure periods, then Borrower shall be in default under this Note and Lender shall have the option, by written notice to Borrower and Borrower's investor (as identified in the Agreement) to declare the amount of the total unpaid balance hereof to be due and forthwith payable in advance of the expiration of the Loan Term, provided Borrower and its investor have been given the right to cure as applicable under the Agreement, the Mortgage and the LURA.

b. The indebtedness evidenced by this Note, together with all documents executed and delivered by Borrower to the County in connection herewith, shall be expressly subordinate to (i) that certain first mortgage loan by PNC in the original principal amount of \$ \_\_\_\_\_ ("First Mortgage Loan"), secured by a first mortgage and which is evidenced and secured by separate first mortgage loan documents; (ii) that certain second mortgage loan by Florida Housing Finance Corporation in the principal amount of \$1,375,000 (the "Second Mortgage Loan") secured by that certain second mortgages, and which is evidenced and secured by separate mortgage loan documents; and (iii) any substitution or refinancing of any of the foregoing loans regardless of the amount of such substitution or refinancing and regardless of who the lender is. The County agrees it will execute and deliver if requested by any senior

lender (including pursuant to a substitution or refinancing), a subordination agreement in form and substance acceptable to such senior lender.

3. **ESTOPPEL/WAIVER:** Failure of Lender to declare a default shall not constitute a waiver of such default. Upon default, this Note will accrue interest at the highest rate permissible under applicable law, or, if this Note be reduced to judgment, such judgment should bear interest at the highest rate permissible under applicable law.

4. **PREPAYMENT:** Borrower reserves the right to prepay at any time all or part of the principal amount of this Note and any accrued interest without the payment of penalties or premiums. All payments of this Note, prior to default, shall be first applied to reduce the principal amount of this Note and second to the payment of interest, if any.

5. **COLLECTION COSTS:** If suit is instituted by Lender to recover this Note, Borrower agree(s) to pay all reasonable out of pocket costs of such collection including reasonable attorney's fees and court costs.

6. **PARTIES:** The words "Borrower" and "Lender" in this Note shall be construed to include the respective heirs, personal representatives, successors, and assigns of the Borrower and the Lender.

7. **CONSTRUCTION AND VENUE:** Each party covenants and agrees that any and all legal actions arising out of or connected with this Note shall be instituted in the Circuit Court of the Third Judicial Circuit, in and for Columbia County, Florida, ~~or in the United States District Court for the North District of Florida,~~ as the exclusive forums and venues for any such action, ~~subject to any right of either party to removal from state court to federal court, which is hereby reserved,~~ and each party further covenants and agrees that it will not institute any action in any other forum or venue and hereby consents to immediate dismissal or transfer of any such action instituted in any other forum or venue. This Note is entered into within, and with reference to the internal laws of, the State of Florida, and shall be governed, construed, and applied in accordance with the internal laws (excluding conflicts of law) of the State of Florida.

8. **NONRECOURSE.** The indebtedness evidenced by this Note is nonrecourse to Borrower and its members and Borrower's sole recourse hereunder shall be against the property described in the Mortgage which secures this Note.

**THIS NOTE ARISES OUT OF OR IS GIVEN TO SECURE THE REPAYMENT OF A LOAN ISSUED IN CONNECTION WITH THE FINANCING OF AFFORDABLE HOUSING AND IS EXEMPT FROM INTANGIBLE TAX PURSUANT TO SECTION 420.513(1), FLORIDA STATUTES.**

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, this Note has been duly executed by Borrower as of the day and year first written above.

**Signed, sealed, and delivered in the presence of:**

\_\_\_\_\_  
Witness Signature:

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Name printed or typed

**BORROWER:**

**SWEETWATER HOUSING II, LLC**, a  
Florida limited liability company

By: DDER Sweetwater Housing II  
Manager, LLC, a Florida limited  
liability company, its manager

By: DDER Holdings, LLC, a Florida  
limited liability company, its  
manager

By: \_\_\_\_\_  
Deion Lowery, Manager

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Deion Lowery, a Manager of DDER Holdings, LLC, a Florida limited liability company, as manager of DDER Sweetwater Housing II Manager, LLC, a Florida limited liability company, as manager of Sweetwater Housing II, LLC, a Florida limited liability company. He/she is personally known to me ☐ or has produced \_\_\_\_\_ (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed, or stamped

My Commission Expires: \_\_\_\_\_

**Exhibit “A”  
PROMISSORY NOTE  
Legal Description**

**Folio Number:**  
**Property Address:**

**Legal Description:**

**End of Exhibit “A”**

After Recording Return to:  
Randy Alligood, Esq.  
Nelson Mullins Riley & Scarborough LLP  
390 N Orange Avenue, Suite 1400  
Orlando, Florida 32828

**Folio No.:**

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(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**DECLARATION**  
**OF COVENANTS AND RESTRICTIONS**

(a/k/a Land Use Restriction Agreement "LURA")

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS**, hereinafter referred to as the "LURA", is entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_, by and between Columbia County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the "County", and Sweetwater Housing II, LLC, a Florida limited liability company, hereinafter referred to as the "Owner".

**R E C I T A L S**

**WHEREAS**, Owner is the owner of a leasehold interest in that certain real property located in Columbia County, Florida, legally described in **Exhibit "A"** attached hereto and incorporated herein by reference, hereinafter referred to as the "Property"; and

**WHEREAS**, the County and Owner entered into that certain General Revenue and HHRP Program Funding Agreement, dated \_\_\_\_\_, 2024, hereinafter referred to as the "Agreement", through which the Owner has or will receive funds from the County, for the construction of improvements on the Property; and

**WHEREAS**, the funds will be used for construction of forty-eight (48) units of affordable rental housing on the Property (the "Project"; and

**WHEREAS**, the County and the Owner desire to enter into this LURA in accordance with the Agreement; and

**WHEREAS**, this LURA shall be properly filed and recorded by the County within the Official Public Records of Columbia County, Florida and shall constitute a restriction upon the use of the Property subject to and in accordance with the terms contained herein.

**NOW THEREFORE**, in consideration of the County providing funding to the Owner, and acknowledging that compliance with this LURA is necessary pursuant to State and local regulations, the parties hereto agree as follows:

1. **Recitals**. The foregoing Recitals are true and correct and by this reference are incorporated as if fully set forth herein.

2. **Property**. The Property subject to this LURA is further described in **Exhibit "A"**, attached hereto and incorporated herein by reference.

3. **Duration of Covenants**. The covenants set forth in this LURA shall remain in effect until the 20<sup>th</sup> anniversary of the Owner's receipt of all certificates of occupancy for the Project ("LURA Term").

Notwithstanding the foregoing or anything to the contrary in the Agreement, this LURA shall automatically terminate and be of no force and effect in the event of involuntary noncompliance with this LURA caused by fire or other casualty, seizure, requisition, change in a federal law or an action by a federal agency that prevents the County from enforcing the provisions hereof, or foreclosure or a deed in lieu of foreclosure by the County or its assignee. Upon a termination of this LURA pursuant to the preceding sentence, the County and Owner will execute a recordable document further evidencing such termination. In the case of foreclosure or deed in lieu of foreclosure, such termination will cease to be effective if at any time during the balance of the term hereof, the Owner or any affiliated entity obtains an ownership interest in the Property for federal tax purposes.

4. Use and Occupancy. Of a total of forty-eight (48) units comprising the Project”), ten (10) units shall be set aside for households at or below fifty percent (50%) Area Median Income, adjusted for family size (AMI) and thirty-eight (38) units shall be set aside for households at or below eighty percent (80%) AMI, adjusted for family size. Further, rent limits shall apply as set forth in applicable laws and rules. The County acknowledges that Florida Housing Finance Corporation is requiring deeper set asides and compliance therewith shall not be a breach hereof. In the event that the Owner sells the Property before the end of the 15th year of the LURA Term or before termination of the Mortgage, in compliance with Florida Statute 420.9075(5)(i), the Owner must give a right of first refusal to eligible nonprofit organizations, as approved by the County, for purchase at the current market value for continued occupancy by eligible persons.

5. Covenants Run with the Land. All conditions, covenants, and restrictions contained in this LURA shall be covenants running with the Property, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, to the fullest extent permitted by law and equity, be binding for the benefit and in favor of the County, and enforceable by the County, its successors and assigns, against Owner, its successors and assigns, to or of the Property conveyed herein or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof, subject to the provisions of Section 3, above. Each and every contract, deed, or other instrument hereafter executed covering or conveying the land or the Project or any portion thereof or interest therein shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions or all of the Property or the Project are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project or the Project.

6. Violation of Agreement. If a material violation of any of the provisions hereof occurs and after written notice from the County and is not cured within a reasonable period of time, the party to this LURA that is affected by the violation may institute and prosecute any proceeding at law or in equity to abate, prevent, or enjoin any such violation or attempted violation and to compel specific performance. A reasonable period of time to cure any default shall be ten (10) days (in the case of monetary defaults) or thirty (30) days (in the case of non-monetary defaults) from the date the County delivers by personal service or mails written notice of such default to the Owner. The provisions hereof are imposed upon and made applicable to the Property and shall run with the Property and shall be enforceable against the owner of the Property or any other person or entity that has or had an ownership interest in the Property or the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation hereof at any later time or times. Notwithstanding anything to the contrary contained herein, the County agrees that any cure of any default made or tendered by Owner’s Investor Member shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made or tendered by Owner.

7. Modification of Agreement. The County and its successors and assigns, and Owner and the successors and assigns of Owner in and to all or any part of Owner’s leasehold interest to the Property, shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, conditions, or restrictions contained in this LURA without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust, or any other person or entity having any interest less than Owner’s leasehold interest in the Property. Any amendment or

modification to this LURA must be in writing and signed by the County and Owner, or their successors and assigns.

8. Venue and Governing Law. Each party covenants and agrees that any and all legal actions arising out of or connected with this LURA shall be instituted in the Circuit Court of the Third Judicial Circuit, in and for Columbia County, Florida, or in the United States District Court for the North District of Florida, as the exclusive forums and venues for any such action, subject to any right of either party to removal from state court to federal court, which is hereby reserved, and each party further covenants and agrees that it will not institute any action in any other forum or venue and hereby consents to immediate dismissal or transfer of any such action instituted in any other forum or venue. This LURA is entered into within, and with reference to the internal laws of, the State of Florida, and shall be governed, construed and applied in accordance with the internal laws (excluding conflicts of law) of the State of Florida.

9. Termination. The covenants set forth herein shall automatically terminate and be of no further force and effect upon satisfactory completion of the LURA Term prescribed herein. Upon passing of the LURA Term, the covenants herein shall be deemed satisfactorily complied with.

10. Filing. Upon execution and delivery by the parties hereto, the County shall cause this LURA and all amendments and supplements hereto to be recorded and filed in the Official Public Records of Columbia County, Florida, and shall pay all fees and charges incurred in connection therewith.

11. Severability. If any provision hereof shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

12. Entire Agreement. This LURA together with the Exhibits embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby.

13. Counterparts. This LURA may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the County and Owner have caused this instrument to be executed on their behalf by their respective officers or agents herein duly authorized as of the day and year first written above.

ATTEST:

~~+~~ JAMES M. SWISHER, JR.  
CLERK OF THE CIRCUIT COURT

COLUMBIA COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
FLORIDA

BY: \_\_\_\_\_  
DEPUTY CLERK

BY: \_\_\_\_\_  
CHAIR  
Board of County Commissioners

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

Document No.: \_\_\_\_\_

BY: \_\_\_\_\_  
Joel F. Foreman, County Attorney

Signed, sealed, and delivered in the presence of:

\_\_\_\_\_  
Witness Signature:

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Name printed or typed

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Deion Lowery, a Manager of DDER Holdings, LLC, a Florida limited liability company, as manager of DDER Sweetwater Housing II Manager, LLC, a Florida limited liability company, as manager of Sweetwater Housing II, LLC, a Florida limited liability company. He/she is personally known to me ☐ or has produced \_\_\_\_\_ (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed, or stamped

My Commission Expires: \_\_\_\_\_

**OWNER:**

**SWEETWATER HOUSING II, LLC**, a  
Florida limited liability company

By: DDER Sweetwater Housing II  
Manager, LLC, a Florida limited  
liability company, its manager

By: DDER Holdings, LLC, a Florida  
limited liability company, its  
manager

By: \_\_\_\_\_  
Deion Lowery, Manager

**Exhibit “A”**

**Land Use Restriction Agreement  
LEGAL DESCRIPTION**

**Legal Description:**

**End of Exhibit “A”**



**PROMISSORY NOTE**

**HHRP Funds  
Sweetwater Housing**

Folio Number:

Property Address:

Legal Description: See Exhibit "A":

Date: \_\_\_\_\_, 2024

Amount: **\$743,924**

**FOR VALUE RECEIVED**, the undersigned, hereinafter referred to as "Borrower," promises to pay to the order of Columbia County, a political subdivision of the State of Florida, hereinafter referred to as "Lender", or its successors, the sum SEVEN HUNDRED THOUSAND NINE HUNDRED AND TWENTY-FOUR AND NO/100 DOLLARS (\$743,924) (hereinafter referred to as the "Note"). This Note is given by the Borrower pursuant to that certain HHRP and General Revenue Funding Agreement, dated \_\_\_\_\_, 2024, by and between Borrower and Lender (the "Agreement")

**1. LOAN PAYMENT:**

a. Borrower shall promptly pay the principal of the indebtedness evidenced by this Note, and all other charges and indebtedness provided herein and in the Mortgage entered into on date even herewith by the Borrower in favor of Lender (the "Mortgage"), at the times and in the manner provided in this Note and in the Mortgage. The Note shall not bear interest.

b. Payment of any principal and interest accrued, if any, shall be due in full on \_\_\_\_\_, **2044**, (hereinafter referred to as the "Loan Term").

**2. DEFAULT & ACCELERATION:**

a. If prior to the expiration of the Loan Term (a) the Property is sold, mortgaged, lien, refinanced, foreclosed upon or otherwise transferred by Borrower in breach of the Mortgage or (b) the Borrower does not materially comply with the terms noted in the Agreement, the Mortgage or that certain Declaration of Covenants and Restrictions, dated \_\_\_\_\_, 2024, by Borrower and Lender (the "LURA") taking into account applicable notice and cure periods, then Borrower shall be in default under this Note and Lender shall have the option, by written notice to Borrower and Borrower's investor (as identified in the Agreement) to declare the amount of the total unpaid balance hereof to be due and forthwith payable in advance of the expiration of the Loan Term, provided Borrower and its investor have been given the right to cure as applicable under the Agreement, the Mortgage and the LURA.

b. The indebtedness evidenced by this Note, together with all documents executed and delivered by Borrower to the County in connection herewith, shall be expressly subordinate to (i) that certain first mortgage loan by PNC in the original principal amount of \$ \_\_\_\_\_ ("First Mortgage Loan"), secured by a first mortgage and which is evidenced and secured by separate first mortgage loan documents; (ii) that certain second mortgage loan by Florida Housing Finance Corporation in the principal amount of \$1,375,000 (the "Second Mortgage Loan") secured by that certain second mortgages, and which is evidenced and secured by separate mortgage loan documents; and (iii) any substitution or refinancing of any of the foregoing loans regardless of the amount of such substitution or refinancing and regardless of who the lender is. The County agrees it will execute and deliver if requested by any senior

lender (including pursuant to a substitution or refinancing), a subordination agreement in form and substance acceptable to such senior lender.

3. **ESTOPPEL/WAIVER:** Failure of Lender to declare a default shall not constitute a waiver of such default. Upon default, this Note will accrue interest at the highest rate permissible under applicable law, or, if this Note be reduced to judgment, such judgment should bear interest at the highest rate permissible under applicable law.

4. **PREPAYMENT:** Borrower reserves the right to prepay at any time all or part of the principal amount of this Note and any accrued interest without the payment of penalties or premiums. All payments of this Note, prior to default, shall be first applied to reduce the principal amount of this Note and second to the payment of interest, if any.

5. **COLLECTION COSTS:** If suit is instituted by Lender to recover this Note, Borrower agree(s) to pay all reasonable out of pocket costs of such collection including reasonable attorney's fees and court costs.

6. **PARTIES:** The words "Borrower" and "Lender" in this Note shall be construed to include the respective heirs, personal representatives, successors, and assigns of the Borrower and the Lender.

7. **CONSTRUCTION AND VENUE:** Each party covenants and agrees that any and all legal actions arising out of or connected with this Note shall be instituted in the Circuit Court of the Third Judicial Circuit, in and for Columbia County, Florida, ~~or in the United States District Court for the North District of Florida,~~ as the exclusive forums and venues for any such action, ~~subject to any right of either party to removal from state court to federal court, which is hereby reserved,~~ and each party further covenants and agrees that it will not institute any action in any other forum or venue and hereby consents to immediate dismissal or transfer of any such action instituted in any other forum or venue. This Note is entered into within, and with reference to the internal laws of, the State of Florida, and shall be governed, construed, and applied in accordance with the internal laws (excluding conflicts of law) of the State of Florida.

8. **NONRECOURSE.** The indebtedness evidenced by this Note is nonrecourse to Borrower and its members and Borrower's sole recourse hereunder shall be against the property described in the Mortgage which secures this Note.

**THIS NOTEARISES OUT OF OR IS GIVEN TO SECURE THE REPAYMENT OF A LOAN ISSUED  
IN CONNECTION WITH THE FINANCING OF AFFORDABLE HOUSING AND IS EXEMPT FROM  
INTANGIBLE TAX PURSUANT TO SECTION 420.513(1), FLORIDA STATUTES.**

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, this Note has been duly executed by Borrower as of the day and year first written above.

**Signed, sealed, and delivered in the presence of:**

\_\_\_\_\_  
Witness Signature:

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Name printed or typed

**BORROWER:**

**SWEETWATER HOUSING II, LLC**, a  
Florida limited liability company

By: DDER Sweetwater Housing II  
Manager, LLC, a Florida limited  
liability company, its manager

By: DDER Holdings, LLC, a Florida  
limited liability company, its  
manager

By: \_\_\_\_\_  
Deion Lowery, Manager

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Deion Lowery, a Manager of DDER Holdings, LLC, a Florida limited liability company, as manager of DDER Sweetwater Housing II Manager, LLC, a Florida limited liability company, as manager of Sweetwater Housing II, LLC, a Florida limited liability company. He/she is personally known to me ☐ or has produced \_\_\_\_\_ (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed, or stamped

My Commission Expires: \_\_\_\_\_





**Exhibit “A”**  
**PROMISSORY NOTE**  
**Legal Description**

**End of Exhibit “A”**

## MORTGAGE

Prepared by and return to:  
Randy Alligood, Esq.  
Nelson Mullins Riley & Scarborough LLP  
390 N Orange Avenue, Suite 1400  
Orlando, Florida 32828

**THIS MORTGAGE ARISES OUT OF OR IS GIVEN TO SECURE THE REPAYMENT OF A LOAN  
ISSUED IN CONNECTION WITH THE FINANCING OF AFFORDABLE HOUSING AND IS EXEMPT  
FROM INTANGIBLE TAX PURSUANT TO SECTION 420.513(1), FLORIDA STATUTES.**

## MORTGAGE

THIS MORTGAGE, hereinafter referred to as the "Mortgage" is made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Sweetwater Housing II, LLC, a Florida limited liability company, hereinafter referred to as "Borrower," whose mailing address is 2700 Westhall Lane, Suite 200, Maitland, Florida 32751, and Columbia County, Florida, a political subdivision of the State of Florida, whose mailing address is 649 NE Ralph Greene Street, Lake City, Florida 32055, hereinafter referred to as "Lender" and is given pursuant to that certain General Revenue and HHRP Program Funding Agreement dated \_\_\_\_\_, 2024 (the "Agreement").

### WITNESSETH:

THAT to secure the payment of an indebtedness in the principal amount of **One Million Two Hundred Forty-Three Thousand, Nine Hundred Twenty-Four and NO/100 Dollars (\$1,243,924.00)**, consisting of a loan of general revenue funds in the amount of **\$500,000** and a loan of HHRP funds in the amount of **\$743,924**, hereinafter together referred to as the "Loan", which shall be payable in accordance with those certain promissory notes evidencing such loans, ~~+~~bearing even date herewith, inclusive of the signature of the Borrower, which is affixed hereto and made a part hereof, hereinafter together referred to as the "Note", and all other indebtedness which Borrower is obligated to pay to Lender pursuant to the provisions of the Note and this Mortgage, Borrower hereby grants, conveys and mortgages to the Lender all of its right, title and interest in all of the following:

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ALL THAT certain **leasehold interest** in that parcel of land situated in Columbia County and State of Florida, described in **Exhibit "A"**, attached hereto (the "Land");

Commented [JF1]: Please explain. Why do we not have a lien on title?

Formatted: Highlight

TOGETHER with all the improvements now or hereafter erected on the Land, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the Land, all of which, including replacements and additions hereto, shall be deemed to be and remain a part of the property covered by this Mortgage and all of the foregoing, together with said property are herein referred to as the "Property"; and

TOGETHER with any and all awards now or hereafter made for the taking of the property mortgaged hereby, or any part thereof (including any easement) by the exercise of the power of eminent domain, including any award for change of grade of any street or other roadway, which awards are hereby assigned to Lender and are deemed a part of the property mortgaged hereby; and, subject to the provisions of any senior

loan, Lender is hereby authorized to collect and receive the same toward the payment of indebtedness secured by this Mortgage, notwithstanding the fact that the amount thereon may not then be due and payable; and

TOGETHER with all rights, title, and interest of Borrower in and to the land lying in the streets, roads, or alleys adjoining to the above-described Land. All the above-described Land, Property, buildings, other structures, fixtures, articles of personal property, awards and other rights and interests being hereinafter collectively referred to as the "Mortgaged Property."

TO HAVE AND TO HOLD the Mortgaged Property and every part thereof unto Lender, its successors and assigns forever for the purposes and uses herein set forth.

AND Borrower further covenants and agrees with Lender, as follows:

**1. PAYMENT OF PRINCIPAL AND INTEREST.**

Borrower shall promptly pay the principal of the indebtedness evidenced by the Note, and all other charges and indebtedness provided therein and in this Mortgage, at the times and in the manner provided in the Note and in the Mortgage.

Upon payment in full of all amounts due under the Note this Mortgage shall terminate and shall be deemed satisfied.

**2. FUNDS FOR TAXES, ASSESSMENTS AND LIENS.**

Borrower shall pay before the same become delinquent, as hereinafter provided, all taxes, assessments, and other governmental charges, fines and impositions, of every kind and nature whatsoever, now or hereafter imposed on the Mortgaged Property, or any part thereof, and will pay when due every amount of indebtedness secured by any lien to which the lien of this Mortgage is expressly subject, subject to a reasonable right to contest in good faith.

**3. COMPLETION OF IMPROVEMENTS.**

This Mortgage is executed and delivered to secure moneys advanced to Borrower by Lender under the Agreement for the purpose of constructing on the Mortgaged Property forty-eight (48) multifamily rental apartments for low-income households, hereinafter collectively referred to as the "Improvements." Borrower shall make or cause to be made all of the Improvements. If the construction or installation of the Improvements shall not be carried out with reasonable diligence, or shall be discontinued at any time for a period of thirty (30) consecutive days for any reason other than strikes, lock-outs, acts of God, fires, floods or other similar catastrophes, such as riots, war or insurrection, federal, state, or local government issued mandates, or other events beyond the control of Borrower, Lender, after due notice to Borrower, is hereby authorized to:

a. to enter upon the Mortgaged Property and employ any watchman, protect the Improvements from depredation or injury and to preserve and protect such property;

b. to carry out any or all the existing contracts between Borrower and other parties for the purpose of making any of the Improvements;

c. to make and enter into additional contracts and incur obligations for the purposes of completing any portion of the Improvements pursuant to the obligations of Borrower hereunder either in the name of Lender or Borrower, and

d. to pay and discharge all debts, obligations and liabilities incurred by reason of any action taken by Lender as provided in this Paragraph, all of which amounts so paid by Lender, with interest thereon from the date of each such payment at the rate of 12% per annum, shall be payable by Borrower to Lender on demand and shall be secured by this Mortgage.

**4. BUILDING REMOVAL, ADDITIONS AND COMPLIANCE WITH REQUIREMENTS.**

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No building, structure, improvement, fixture, or personal property mortgaged hereby shall be removed or demolished without the prior written consent of Lender except for obsolete or worn property replaced by adequate substitutes equal or greater in value than the replaced items when new and inventory and goods in the ordinary course of business. Borrower will not make, permit, or suffer any alteration of or addition to any building, structure or improvement which may hereafter be erected or installed upon the Mortgaged Property, or any part thereof, except the Improvements required to be made pursuant to Paragraph 3 hereof, nor will Borrower use, or permit or suffer the use of, any of the Mortgaged Property for any purpose other than the purpose or purposes for which the same is now intended to be used, without the prior written consent of Lender. Borrower will maintain the Mortgaged Property in good condition and state of repair and will not suffer or permit any waste to any part thereof, and will promptly comply with all the requirements of Federal, State and local governments or of any departments, divisions or bureaus thereof, pertaining to such property or any part thereof.

**5. CHARGES , LIENS AND TRANSFERS.**

Borrower will not voluntarily create, or permit or suffer to be created or to exist, on or against the Mortgaged Property or any part thereof, any lien or encumbrance and will keep and maintain the same free from the claims of all parties supplying labor and/or materials which will enter into the construction or installation of the Improvements and will not transfer any material portion of the Mortgaged Property. Notwithstanding the foregoing, the following liens and encumbrances shall be permitted without any consent of Lender: (a) that certain first mortgage loan by PNC Bank, National Association in the original principal amount of [\$1,250,000] ("First Mortgage Loan"), secured by a first mortgage and which is evidenced and secured by separate first mortgage loan documents; (ii) that certain second mortgage loan by Florida Housing Finance Corporation in the principal amount of \$1,375,000 (the "Second Mortgage Loan") secured by that certain second mortgage, and which is evidenced and secured by separate mortgage loan documents; and (iii) any substitution or refinancing of any of the foregoing loans regardless of the amount of such substitution or refinancing and regardless of who the lender is (altogether, the "Senior Debt") (b) any such liens and encumbrances provided on the Borrower's title policy provided to Lender in connection with the closing of the Loan; (c) utility, cable, or other similar liens, encumbrances, claims or easements that are customarily granted for the operation of similar projects or in the ordinary course of business of operating an apartment complex; (d) residential leases; (e) any transfers and encumbrances permitted under the Borrower's operating agreement and (f) any other transfers or encumbrances to which Lender has consented (altogether, "Permitted Transfers and Encumbrances"). The Loan secured hereby and the terms of this Mortgage shall be subordinate in all respects, including in lien and payment to the Senior Debt and the agreements, documents and instruments executed by Borrower in connection therewith. Lender agrees that it will execute and deliver if requested by any holder of the Senior Debt (the "Senior Lenders"), a subordination agreement in the form and substance reasonably acceptable to such holder.

**6. NOTICE OF FIRE OR CASUALTY.**

Borrower will give immediate notice by registered or certified mail to Lender of any fire, damage or other casualty affecting the Mortgaged Property, or of any conveyance, transfer or change in ownership of such property, or any part thereof, other than in connection with Permitted Transfers and Encumbrances.

**7. COVERAGE OF INSURANCE POLICIES.**

a. Borrower will keep all buildings, other structures and improvements insured against loss by fire, flood (when applicable) and other hazards, casualties and contingencies in such amounts and manner and for such periods as may be required by Lender. Lender's insurance requirements may change from time to time throughout the term of the indebtedness. All such insurance policies must include standard fire and extended coverage in amounts not less than necessary to comply with the coinsurance clause. Flood insurance IS NOT required for the subject property during the term of the mortgage loan. When required, flood insurance shall be in an amount at least equal to the outstanding principal balance of all mortgage(s),

or the maximum amount of insurance available with respect to the project under the National Flood Insurance Act, whichever is lesser. All such insurance shall be carried by companies approved by Lender, and all policies shall be in such form and shall have attached hereto loss payable clauses in favor of Lender and any other parties as shall be satisfactory to Lender. All such policies and attachments thereto shall be delivered promptly to Lender, unless they are required to be delivered to the holder of a lien or a mortgage or similar instrument to which this Mortgage is expressly subject, in which latter event certificates thereof, satisfactory to Lender, shall be delivered promptly to Lender. Borrower will pay promptly when due, as hereinafter provided, any and all premiums on such insurance. The Lender shall be listed as an additional insured on all such insurance policies.

b. In the event of loss or damage to the Mortgaged Property, subject to the rights of the Senior Lenders, Borrower will give to Lender immediate notice thereof by mail, at the address herein above stated and Lender may make and file proof of loss if not made otherwise promptly by or on behalf of Borrower. Unless Borrower and Lender otherwise agree in writing, insurance proceeds shall be applied to restoration or repair, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, for more than thirty (30) days unless due to events described in Paragraph 3, or if Borrower fails to respond to Lender within thirty (30) days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

c. At least thirty (30) days prior to the expiration of each policy, the Borrower will furnish the Lender with evidence satisfactory to the Lender of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. All policies, including policies for any amounts carried in excess of the required minimum and policies not specifically required by the Lender, will be in a form satisfactory to the Lender, and will be maintained in full force and effect.

#### **8. TAXES.**

In order to protect more fully the security of this Mortgage, Borrower shall promptly submit to Lender upon request, or Lender's designated agent, the Columbia County Tax Invoice for the Mortgaged Property. Such invoice shall show either that no taxes are due or be accompanied by a receipt showing taxes have been paid in full.

#### **9. LOCAL ORDINANCES.**

The Improvements and all plans and specifications shall comply with all applicable local ordinances, regulations and rules made or promulgated with lawful authority.

#### **10. PROTECTION OF LENDER'S SECURITY.**

a. If Borrower fails to materially perform the covenants and agreements contained in this Mortgage or the Agreement, excluding any lien to which this Mortgage is expressly subject, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

b. Any amounts disbursed by Lender pursuant to this Paragraph with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payments, such amounts shall be payable upon notice from Lender to Borrower

requesting payment thereof, and shall bear interest from the date of disbursement at the highest rate permitted by law. Nothing contained in this Paragraph shall require Lender to incur any expense or take any action hereunder.

**11. LENDER INSPECTIONS.**

Lender, or any of its Agents or Representatives, shall have the right to inspect the Mortgaged Property upon reasonable notice, which shall not be less than 3 business days. Should the Mortgaged Property, or any part thereof, require repair, care, or attention, then, after written notice as provided herein (Paragraph 16) to Borrower, and Borrower's failure to so perform, Lender may enter or cause entry to be made upon the Mortgaged Property and repair, protect and maintain the property as Lender may deem necessary. Any and all money that Lender must pay to accomplish the proper maintenance on the mortgaged property shall become due and payable under the provisions of Paragraph 10.

**12. EVENT OF DEFAULT.**

An Event of Default will be the occurrence of any one of the following events and the expiration of any applicable cure period set forth herein, and upon that occurrence Lender may, at Lender's option, subject to Paragraph 13 below, declare all sums secured by this Mortgage to be immediately due and payable.

a. Failure to pay the amount of any installment of principal and interest, or other charges payable on the Note, which shall have become due within 10 days of notice from Lender;

b. Nonperformance by Borrower of any covenant, agreement, term, or condition of this Mortgage, the Note, the Agreement, that certain Declaration of Covenants and Restrictions between Lender and Borrower ("LURA") or of any other agreement made by Borrower with Lender in connection with such indebtedness, after Borrower has been given due notice in accordance with Paragraph 13 below by Lender to cure such nonperformance and Borrower has failed to cure within the allowed cure period;

c. Failure of Borrower to perform any covenant, agreement, term or condition in any instrument creating a lien upon the Mortgaged Property, or any part thereof, which shall have priority over the lien of this Mortgage which continues beyond any applicable grace or cure period and for which a default has been declared;

d. Lender's discovery of Borrower's failure in any application of Borrower to Lender to disclose any fact reasonably deemed by Lender to be material, or the making herein, or in any of the agreements entered into by Borrower with Lender (including, but not limited to, the Note and this Mortgage) of any material misrepresentation by, on behalf of, or for the benefit of Borrower;

e. Failure by the Borrower to submit promptly to the Lender or Lender's designated agent proof of payment of all insurance and taxes, as required herein; or

f. **WITHOUT LENDER'S PRIOR WRITTEN CONSENT (WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED), IF FIFTY PERCENT (50%) OR MORE OF DDER SWEETWATER II MANAGER LLC'S 'S INTEREST IN BORROWER IS TRANSFERRED TO PERSONS OR ENTITIES OTHER THAN PERSONS OR ENTITIES HOLDING INTERESTS IN BORROWER (DIRECTLY OR INDIRECTLY), AS OF THE DATE HEREOF, FOR CLARIFICATION, THE TAX CREDIT INVESTOR MAY FREELY TRANSFER ITS INTEREST IN THE BORROWER AND ANY INTEREST IN THE INVESTOR LIMITED MEMBER AND REMOVE AND REPLACE THE BORROWER'S MEMBERS AS PERMITTED IN AND SUBJECT TO THE BORROWER'S AMENDED AND RESTATED**

**OPERATING AGREEMENT, WITH NOTICE OF THE TRANSFER PROVIDED TO THE LENDER WITHIN THIRTY (30) DAYS OF SUCH TRANSFER.**

g. In the event that the Borrower sells the Property before the end of the 15th year of the LURA Term or before termination of the Mortgage, in compliance with Florida Statute 420.9075(5)(i), the Borrower must give a right of first refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

h. Notwithstanding anything to the contrary contained herein, in no event shall an Event of Default exist based on Borrower's performance under Section VII of Exhibit A of the Agreement related to Borrower's assistance in disaster response and recovery efforts.

i. Notwithstanding any language to the contrary contained herein or in any of the other agreement or document entered into between the Borrower and Lender in connection with this Mortgage, prior to the Lender declaring a default or breach hereunder or under any of the other related Loan documents, the Lender shall send written notice of the default or breach to the Borrower with a copy to each party listed below and the Borrower shall have a period of thirty (30) days after receipt of the notice of default to cure such default; provided, however, if such default or breach may not reasonably be cured within such 30 day period, a default or breach shall not be deemed to have occurred so long as Borrower diligently and continuously endeavors to cure the same. Lender hereby agrees that any cure of any default or breach made by the Investor Member 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.

**13. OPTION OF MORTGAGEE UPON EVENT OF DEFAULT.**

Upon the occurrence of An Event of Default, Lender, prior to acceleration, shall mail notice to Borrower as is provided in Paragraph 16 hereof, specifying:

- a. The breach;
- b. The action required to cure such breach;
- c. A date not less than ten (10) days from the date the notice is mailed to Borrower by which such breach must be cured if the default is a monetary default, and a date not less than thirty (30) days from the date the notice is mailed to Borrower by which such breach must be cured if the default is a non-monetary default; and
- d. That failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceedings, and sale of the property. The notice shall further inform Borrower of the right to assert in the foreclosure proceedings the non-existence of a default, or any other defense of Borrower to acceleration and foreclosure.
- e. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceedings. Lender shall be entitled to collect in such proceedings all expenses of foreclosure, including, but not limited to, reasonable attorney's fees and costs of documentary evidence, abstract, title reports and court costs.
- f. Notwithstanding anything herein to the contrary, Borrower's investor member shall have the right, but not the obligation, to cure a default hereunder within the same cure period as the Borrower.

**14. APPOINTMENT OF RECEIVER.**

Lender in any action to foreclose this Mortgage may be entitled to have a receiver appointed by a Court of Law as a matter of right and without regard to the value of the Mortgaged Property or the solvency of Borrower or other parties liable for the payment of the Note and other indebtedness secured by this Mortgage. Said receiver shall enter upon, take possession of and manage the Property, and will collect rents of the Property, including those past due. All rents collected by the receiver shall be applied first to payments of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds, and reasonable attorney's fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

**15. FORBEARANCE BY LENDER NOT A WAIVER.**

Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of indebtedness secured by this Mortgage.

**16. NOTICE.**

Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the property address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address below, or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein. In the event Borrower is provided notice by Lender under the loan documents, Lender agrees to provide Borrower's Investor Member with simultaneous written notice at the address set forth below.

LENDER: Columbia County, Florida  
Columbia County Board of Commissioners  
~~649 NE Ralph Greene Street~~ 135 NE Hernando Street  
Lake City, Florida 32055  
Attn: ~~[Affordable Housing Director]~~ County Manager

BORROWER: Sweetwater Housing II, LLC  
c/o DDER Holdings, LLC  
2700 Westhall Lane, Suite 200  
Maitland, Florida 32751  
Attn: Deion Lowery

**WITH COPIES TO:**

Revital Sweetwater II, LLC  
3750 Gunn Highway, Suite 104  
Tampa, Florida 33618

DDER Holdings, LLC  
2700 Westhall Lane, Suite 200  
Maitland, Florida 32751



CDC Sweetwater II, LLC  
c/o The Greater Lake City Community  
Development Corporation, Inc.  
363 NW Bascom Norris Drive  
Lake City, Florida 32055

Nelson, Mullins, Riley, & Scarborough, LLP  
390 North Orange Avenue, Suite 1400  
Orlando, FL 32801  
Attn: Randy Alligood, Esq.

**Investor Member:**

PNC Bank  
121 S.W. Morrison Street, Suite 1300  
Portland, Oregon 97204  
Attention: Asset Manager

**With a Copy to:**

Kutak Rock  
1650 Farnam Street  
Omaha, NE 68102  
Attention: Greg Grattan

**17. ONE PARCEL.**

In case of a foreclosure sale of the Mortgaged Property, it may be sold as one parcel.

**18. BORROWER'S COPY.**

Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation thereof.

**19. LAWFULLY SEIZED.**

Borrower is lawfully seized of the Mortgaged Property and has good right, full power, and lawful authority to sell and convey the same in the manner above provided, and will warrant and defend the same to Lender forever against the lawful claims and demands of any and all parties whatsoever, other than Permitted Transfers and Encumbrances.

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**21. CAPTIONS.**

The captions of this Mortgage are for convenience only and shall not be construed as defining or limiting the scope or intent of the provisions hereof.

**22. SUCCESSORS AND ASSIGNS.**

This Mortgage and all covenants, agreements, terms, and conditions herein contained shall be binding upon and inure to the benefit of Borrower, and, to the extent permitted by law, every subsequent owner of the Mortgaged Property and shall be binding upon and inure to the benefit of Lender and its assigns. This Mortgage, the Agreement, and Note, may be assigned or transferred, subject to Borrower receiving written consent from Lender and such transferee assuming and accepting all of the covenants, agreements, terms and conditions herein. Such consent shall not be unreasonably withheld. The word "Lender" shall include any person, corporation, or other party who may from time to time be the holder of this Mortgage. Whenever used herein, the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall be applicable to all genders wherever the sense requires.

**23. VENUE**

Each party covenants and agrees that any and all legal actions arising out of or connected with this Mortgage shall be instituted in the Circuit Court of the Third Judicial Circuit, in and for Columbia County, Florida, ~~or in the United States District Court for the North District of Florida~~, as the exclusive forums and venues for any such action, ~~subject to any right of either party to removal from state court to federal court, which is hereby reserved~~, and each party further covenants and agrees that it will not institute any action in any other forum or venue and hereby consents to immediate dismissal or transfer of any such action instituted in any other forum or venue. This Mortgage is entered into within, and with reference to the internal laws of, the State of Florida, and shall be governed, construed, and applied in accordance with the internal laws (excluding conflicts of law) of the State of Florida.

**24. SURVIVABILITY AND SEVERABILITY**

a. Any term, condition, covenant, or obligation which requires performance by either party subsequent to termination of this Mortgage shall remain enforceable against such party subsequent to such termination.

b. In the event any section, sentence, clause or provision of this Mortgage is held to be invalid, illegal or unenforceable by a court having jurisdiction over the matter, the remainder of this Mortgage shall not be affected by such determination and shall remain in full force and effect.

**25. RELEASE**

Upon payment of all sums secured by this Mortgage and the Note, the Lender shall release this Mortgage and the Note. The Borrower shall pay all recordation costs.

**26. MERGER AND MODIFICATIONS**

This Mortgage will not be modified or amended except by agreement in writing signed by both parties. This Mortgage embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby.

**27. NONRECOURSE.**

The Borrower and its successors and assigns shall only be liable upon the indebtedness evidenced by the Agreement, and sums or amounts to accrue or to become payable thereunder or under this Mortgage, the Note or the LURA or any of them, to the extent of the nonrecourse security granted under this Mortgage. If a default occurs, any judicial proceedings or enforcement of the remedies under this Mortgage, the Note, the Agreement and the LURA against the Borrower and its successors and assigns

shall be limited to the preservation, enforcement and foreclosure of the liens, estates, assignments, titles, rights and security interests now or at any time hereafter acquired in such security and no judgment, attachment, execution or other writ of process shall be sought, issued or levied upon the assets, property or funds of the Borrower or its successors and assigns other than the properties, rights, estates and interests of the Borrower as are identified as security in this Mortgage. In the event of a foreclosure or other disposition as provided for in this Mortgage of such liens, estates, assignments, titles, rights and security interests, whether by judicial proceedings or the exercise of the power of sale, no judgment for the deficiency of such indebtedness, sums and amounts shall be sought or obtained against the Borrower its members and/or its successors and assigns.

**[Signatures on the following page]**

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IN WITNESS WHEREOF, this Mortgage has been duly signed and sealed by the Borrower on or as of the day and year first above written.

Signed, sealed, and delivered in the presence of:

\_\_\_\_\_  
Witness Signature:

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Name printed or typed

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

**BORROWER:**

**SWEETWATER HOUSING II, LLC**, a  
Florida limited liability company

By: DDER Sweetwater Housing II  
Manager, LLC, a Florida limited  
liability company, its manager

By: DDER Holdings, LLC, a Florida  
limited liability company, its  
manager

By: \_\_\_\_\_  
Deion Lowery, Manager

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Deion Lowery, a Manager of DDER Holdings, LLC, a Florida limited liability company, as manager of DDER Sweetwater Housing II Manager, LLC, a Florida limited liability company, as manager of Sweetwater Housing II, LLC, a Florida limited liability company. He/she is personally known to me ☐ or has produced \_\_\_\_\_ (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed, or stamped

My Commission Expires: \_\_\_\_\_

**Exhibit “A”  
Legal Description  
MORTGAGE**

**Sweetwater Housing Multi-Family Project  
GENERAL REVENUE AND HHRP PROGRAM FUNDING AGREEMENT**

**AN AGREEMENT BETWEEN COLUMBIA COUNTY, FLORIDA AND SWEETWATER HOUSING II, LLC, A FLORIDA LIMITED LIABILITY COMPANY, TO PROVIDE FUNDS TO ASSIST WITH CONSTRUCTION COSTS ASSOCIATED WITH THE DEVELOPMENT OF SWEETWATER HOUSING II, A FORTY EIGHT (48) UNIT AFFORDABLE HOUSING RENTAL DEVELOPMENT FUNDED IN PART BY GENERAL REVENUE FUNDS IN AN AMOUNT NOT TO EXCEED \$500,000 AND IN PART BY THE STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM IN AN AMOUNT NOT TO EXCEED \$743,924.**

**THIS GENERAL REVENUE AND HHRP PROGRAM FUNDING AGREEMENT,** hereinafter referred to as the “Agreement,” dated 2023, by and between Columbia County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the “County”, whose mailing address is 135 NE Hernando Avenue, Lake City, FL 32055 and Sweetwater Housing II, LLC, a Florida limited liability company, hereinafter referred to as the “Project Sponsor,” whose mailing address is \_\_\_\_\_.

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**WHEREAS,** the County has committed \$500,000 of general revenue funds to Project Sponsor to support the development and construction of affordable housing; and

**WHEREAS,** receives funding from the Hurricane Housing Recovery Program, hereinafter referred to as “HHRP,” pursuant to Sections 420.907 through 420.9079, Florida Statutes, as amended, and Chapter 67-37, Florida Administrative Code (together, the “HHRP Regulations”), for the provision of safe, decent and affordable housing to individuals and families of very low, low or moderate income; and

**WHEREAS,** on February 16, 2023, the Board of County Commissioners of Columbia County, by Resolution No. [Note to County: Resolution appears to not have a number], adopted the Columbia County Local Housing Assistance Plan for State Fiscal Years 2023-2026, as amended by the Board of County Commissioners of Columbia County on August 1, 2024, by Resolution No. 2024R-25, herein after collectively referred to as the (“LHAP,”); and

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**WHEREAS,** pursuant to the LHAP, the County is undertaking certain activities to develop and sustain viable communities, to provide decent housing and a suitable living environment and to expand economic opportunities principally for persons and households of very low, low, and moderate income, as more fully described in the LHAP; and

**WHEREAS,** the County intends to encourage public-private partnerships and secure cooperation of the public and private sectors to reduce the cost of housing for very-low-, low- and moderate-income persons by effectively combining resources and cost-saving measures; and

**WHEREAS,** in pursuit of its goals, the County desires to enter into an agreement with the Project Sponsor to provide general revenue funding and to provide HHRP funding for construction costs for forty-eight (48) multifamily affordable housing rental units for the family demographic in Columbia County of which ten (10) units will be available for households at or below 50% area median income (AMI) and thirty-eight (38) units will be available for households at or below 80% AMI, as more particularly described in **Exhibit “A,”** hereinafter referred to as the “Project”; and

**WHEREAS**, the construction costs for an affordable housing community is an eligible activity for the County’s general revenue funds and pursuant to HHRP Regulations and the general revenue funds and the HHRP funds (together, the “Funds”) may be used to supports the County’s mission to of providing affordable housing opportunities.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

The recital clauses stated above, and the following attached documents are hereby incorporated hereto:

Exhibit A	Scope of Services
Exhibit B	Request for Payment
Exhibit C	Legal Description
Exhibit D	Insurance Requirements
Exhibit E	Monthly Reporting
Exhibit F	Occupancy and Rent Reporting Form
Exhibit G	Equal Opportunity Clause

The parties are bound by the attached documents as if the text of these documents were written verbatim into this Agreement. The Agreement and the attached documents are intended to supplement and complement each other and shall, where possible, be so interpreted.

## **ARTICLE I. SCOPE OF SERVICE AND USE OF FUNDS**

Project Sponsor shall carry out, or cause to be carried out, the scope of work described in **Exhibit “A,”** attached hereto and made part hereof.

- a) All construction activities shall be completed in compliance with all applicable Columbia County Codes and Ordinances and in a satisfactory and proper manner as determined by the County. Such services shall be performed, except as otherwise stated herein, by persons or instrumentalities solely under the domain and control of the Project Sponsor.
- b) Project Sponsor shall comply with such other terms and conditions, including record keeping and reports for program monitoring and evaluation purposes, as may be established by the County or by the State for the purposes of carrying out the Project in an effective and efficient manner.
- c) Project Sponsor shall comply with all HHRP project requirements pursuant to HHRP Regulations and the LHAP as it relates to the maximum per-unit award, all of which are incorporated herein by reference.
- d) Project Sponsor agrees that all housing acquired and constructed with the Funds shall meet all applicable state and local construction codes (Columbia County Code of Ordinances), rehabilitation standards and zoning ordinances at the time of Project completion. Project Sponsor shall correct all cited code violations with the use of said the Funds and shall cooperate with the County in the disbursement of funds for the payment of contracted labor and related construction costs.
- e) Project Sponsor has primary responsibility to market vacant units. The Project Sponsor will affirmatively market any unit available in a manner to attract residents without regard to race, color,

ancestry, national origin, sex, religion, familial status, marital status, handicap or age. The Project Sponsor agrees, in soliciting residents, to do the following:

1. Use the Equal Housing Opportunity logo in all advertising;
  2. Display a Fair Housing poster in the rental and/or primary office;
  3. Maintain files of Project Sponsor's affirmative marketing activities for five (5) years after the affordability period and provide access thereto to County staff;
  4. Exercise affirmative marketing of all units; and
  5. Verify all information concerning the resident, which may be obtained from any source by the Project Sponsor or its assignees or designees.
- f) Project Sponsor shall maintain such records and accounts necessary to assure a proper accounting and monitoring of all Funds provided pursuant to this Agreement, including program records, project records; financial records; project administration records; equal opportunity and fair housing records; affirmative marketing and MBE/WBE records; records demonstrating compliance with the income determination requirements per Chapter 420, Florida Statutes and Chapter 67-37 of the Florida Administrative Code; recordkeeping requirements of Chapter 420, Florida Statutes and Chapter 67-37 of the Florida Administrative Code; records supporting exceptions to the conflict of interest prohibition pursuant to Article XI; debarment and suspension certifications for general contractors and subcontractors; and any other records as are deemed necessary by the County to assure a proper accounting and monitoring of all Funds.

## ARTICLE II. PERIOD OF AGREEMENT AND EFFECTIVE DATE

Unless otherwise provided herein, this Agreement shall be effective upon execution by the parties hereto and shall remain in full force and effect until the twentieth (20<sup>th</sup>) anniversary of the last certificate of occupancy granted to Project Sponsor \_\_\_\_\_, **20**. The funding for this Project shall be expended by **December 31, 2026**.

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## ARTICLE III. CONSIDERATION AND PAYMENT

- a. For its performance under this Agreement, the Project Sponsor will receive general revenue funds from the County in an amount not to exceed **\$500,000** and HHRP funds from the County in an amount not to exceed **\$743,924**, for allowable construction expenses incurred during the term of this Agreement. Payment for services shall be limited to the scope described in **Exhibit "A"**, incorporated herein and made a part hereof. The County's provision of general revenue funds will be made pursuant to a loan to be evidenced by a promissory note to be executed by Project Sponsor in favor of the County. The County's provision of HHRP funds will be made pursuant to a loan to be evidenced by a promissory note to be executed by Project Sponsor in favor of the County. Each such promissory note will be secured by a mortgage (the "Mortgage").
- b. Project Sponsor shall execute and record in the Public Records of Columbia County, Florida, the Mortgage, and a Land Use Restriction Agreement in form and substance reasonably acceptable to the County.

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## ARTICLE IV. CANCELLATION OF AGREEMENT



Except as otherwise provided herein, this Agreement may be cancelled by either party if the other party materially fails to comply with the terms and conditions of this Agreement and such failure has not been cured within the applicable cure periods. Either party will be required to provide thirty (30) days advance written notice to the other at its address as herein specified; however, upon the closing of the Project Sponsor's tax credit equity and construction financing, the County shall not terminate this Agreement for convenience, except where funding received by the County from the State for this Agreement is withdrawn or reduced by the State, in which case the County may terminate this agreement with respect to such funds for convenience, in its sole discretion.

#### **ARTICLE V. DEFAULT AND TERMINATION FOR NON-PERFORMANCE**

- a. A default shall consist of any use of the Funds for a purpose other than as authorized by this Agreement, noncompliance with any provision in any Article herein, any material breach of the Agreement, failure to comply with the audit requirements as provided in Article XVI herein, or failure to expend the Funds in a timely or proper manner.
- b. Upon the occurrence of any such default the County shall serve due notice, in accordance with Article XXXIV, to the Project Sponsor, at which time the Project Sponsor shall have a reasonable opportunity to respond and cure. For purposes of this Agreement, a reasonable opportunity to respond and cure any default shall be ten (10) days (in the case of monetary defaults) or thirty (30) days or such longer period of time if such default cannot be reasonably cured within 30 days and the Project Sponsor is diligently and reasonably trying to cure such default, (in the case of non-monetary defaults) from the date the County delivers by personal service or mails written notice of such default to the Project Sponsor, hereinafter referred to as the "Cure Period". If the default is not cured to the satisfaction of the County, the County shall have the right, in its sole discretion, to take the following action(s):
  - 1) Upon a written request from Project Sponsor setting forth a reasonable basis to support the need for an additional Cure Period, the County may grant an additional Cure Period by written acknowledgment thereof; or
  - 2) Terminate this Agreement by written notice thereof; or
  - 3) Take such other action, including, but not limited to temporarily withholding cash payments pending correction of the deficiency by the Project Sponsor, disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for the Project, withhold further awards for the Project or take other remedies that may be legally available. The enforcement remedies identified in this Article, including suspension and termination, do not preclude the Project Sponsor from being subject to "Debarment and Suspension" under Section 287.133, Florida Statutes.
- c. Costs resulting from obligations incurred by the Project Sponsor during a suspension or after termination of an award are not allowable unless the County expressly authorizes them in the notice of suspension or termination or subsequently. Other Project Sponsor costs during suspension or after termination, which are necessary and not reasonably avoidable, are allowed if:
  1. The costs result from obligations which were properly incurred by the Project Sponsor before the effective date of suspension or termination, and are not in anticipation of it,

and, in the case of a termination, are noncancellable; and

2. The costs would be allowed if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- d. Consistent with Article XXXVI herein, no delay or omission by County and/or State in exercising any right or remedy available to it under the Agreement shall impair any such right or remedy or constitute a waiver or acquiescence in any Project Sponsor default.
- e. Notwithstanding anything to the contrary contained herein, in no event shall a default exist based on Project Sponsor's performance under Section VII of Exhibit A related to Project Sponsor's assistance in disaster response and recovery efforts.

Any notice of default given to Project Sponsor hereunder shall also be given to the investor member of Project Sponsor ("Investor Member") and the County shall accept any cure by the Investor Member as if such cure was made by the Project Sponsor.

#### **ARTICLE VI. ADDITIONAL RIGHTS AND REMEDIES**

Nothing contained herein shall be construed as a limitation on such other rights and remedies available to the parties under law or in equity which may now or in the future be applicable.

#### **ARTICLE VII. FISCAL NON-FUNDING CLAUSE**

This Agreement is subject to funding availability. In the event sufficient budget funds to fund this Agreement become reduced or unavailable, the County shall notify the Project Sponsor of such occurrence, and the County may terminate this Agreement, without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the Project Sponsor. The County shall be the final authority as to the availability of funds and how available funds will be allotted. If this Agreement is funded in whole or in part by federal or state dollars which are reduced or become unavailable, the County shall notify the Project Sponsor of such occurrence and the County may terminate this Agreement without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the Project Sponsor. Notwithstanding the foregoing, once the promissory notes and the mortgage are executed and delivered, the funding shall be subject to compliance with those documents. The County's right to terminate this Agreement in this Article is subject to Article IV hereof.

#### **ARTICLE VIII. ASSIGNMENT**

Project Sponsor shall not assign this Agreement or any part hereof without the prior written consent of the County.

#### **ARTICLE IX. COMPLIANCE WITH APPLICABLE LAWS**

- a. The Project Sponsor certifies that it will comply with all applicable laws, orders, and codes of the State and local governments as they pertain to this Agreement, including, but not limited to, the requirements of Chapter 420, Part VII, Florida Statutes, as amended, Chapter 67-37, Florida Administrative Code, and the County's current LHAP, as amended (as it relates to affordable rental properties), all of which are incorporated herein and made a part of this Agreement by reference.

- b. Upon Project completion and initial occupancy, the Project Sponsor shall provide annual reports with information on the Project detailing the number of households served by income category, age, family size, race, and data regarding any special needs populations. Said report shall include information regarding any support services available to the residents of affordable housing provided by local programs. Formats for reporting shall be as set forth in **Exhibits “E” and “F”**, attached hereto and incorporated herein by reference. Notwithstanding, the Project Sponsor shall provide to the County all reports provided to Florida Housing Finance Corporation (“Florida Housing”) in connection with Florida Housing’s low income housing tax credit program and no additional reporting shall be required under this Agreement.

The provisions of this Article shall survive the expiration or earlier termination of this Agreement.

#### **ARTICLE X. NONDISCRIMINATION IN HOUSING**

The Project Sponsor agrees to comply with the requirements of all applicable state, federal, and local laws, rules, regulations, ordinances and Executive Orders prohibiting and/or relating to discrimination.

When expending Funds, the Project Sponsor shall, within the eligible population, comply with the provisions of Chapter 760, Part II, Florida Statutes, as amended, which prohibits discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or marital status in the award application process for eligible housing.

#### **ARTICLE XI. CONFLICT OF INTEREST**

- a. The Project Sponsor agrees that no member of the governing body of the locality in which the Project Sponsor is situated, no other public official of such locality or localities, and no person, unless expressly permitted by the State, who is an employee, agent, consultant, officer, or elected or appointed official of the Project Sponsor, and who exercises or has exercised any functions or responsibilities with respect to the HHRP Program’s assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the HHRP assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or with respect to the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one (1) year thereafter.
- b. The Project Sponsor represents that it presently has no interest, and shall not acquire such interest, financial or otherwise, direct or indirect, nor engage in any business transaction or professional activity or incur any obligation of any nature which would conflict in any manner with the performance of scope of service required hereunder.
- c. Without receiving prior written authorization by the County, except with respect to the developer, the management company, the general contractor and the equity syndicator, the Project Sponsor shall not (i) retain any individual or company with whom the Project Sponsor or any individual member thereof has a financial or other conflict of interest; nor (ii) in

fulfillment of this Agreement, do business with a for-profit entity in which the Project Sponsor or any individual member has a financial or other interest therein.

#### **ARTICLE XII. RESERVED**

#### **ARTICLE XIII. POLITICAL ENDORSEMENT PROHIBITION**

To the extent required by applicable law, the Project Sponsor shall not engage in political activities that promote or oppose specific candidates.

#### **ARTICLE XIV. PUBLIC ENTITY CRIMES**

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, as amended, for Category Two for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.
- b. Additionally, a conviction of a public entity crime may cause the rejection of a bid, offer, or proposal. The County may make inquiries regarding alleged convictions of public entity crimes. The unreasonable failure of a bidder, offeror or proposer to promptly supply information in connection with an inquiry may be grounds for rejection of a bid, offer, proposal or reply.

#### **ARTICLE XV. MAINTENANCE OF RECORDS**

- a. Project Sponsor shall maintain all records and accounts, including property, personnel and financial records, contractual agreements, construction reports, subcontracts, proof of required insurance, and any other records related to or resulting from the activities performed under this Agreement to assure a proper accounting and monitoring of all Funds.
- b. With respect to all matters covered by this Agreement, records will be made available for examination, audit, inspection or copying purposes at any time during normal business hours and as often as the County, State, representatives of the Comptroller General of the United States or other federal agency may require. Project Sponsor will permit same to be examined and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this Agreement. The County shall provide notice of its intent to inspect records to the Project Sponsor at least 3 business days in advance.
- c. The County's right of inspection and audit shall obtain likewise with reference to any audits made by any other agency, whether local, state or federal. Project Sponsor shall retain all records and supporting documentation applicable to this Agreement for five (5) years after receipt of final payment from the County, for inspection. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention

period, records must be retained until completion of the action and resolution of all issues which arise from it, or the end of the required period, whichever is later. The retention period starts from the date the final unit is occupied by a very low- or low-income beneficiary and the County's submission of the annual HHRP Accomplishments Report, as prescribed in Chapter 420, Florida Statutes, in which the activities as described in **Exhibit "A"** are reported on for the final time rather than from the date of submission of the final expenditure report for the award.

- d. This Article shall survive the expiration or earlier termination of this Agreement.

#### **ARTICLE XVI. AUDIT REQUIREMENTS**

- a. Pursuant to Section 215.97, Florida Statutes, if during the period of this Agreement, the Project Sponsor expends more than \$750,000.00 in State financial assistance in an operating year from this and other grants, the Project Sponsor shall, at its own cost and expense, cause to be carried out an independent audit. The audit shall be completed, and a copy furnished to the County, within the earlier of thirty (30) days after receipt of the auditor's report(s), unless a longer period is agreed to in advance by the County. For purposes of this Agreement, an operating and/or audit year is the equivalent to the Project Sponsor's fiscal year. The determination of when Funds are expended is based on when the activity related to the expenditure occurs.
- b. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not expended in accordance with the conditions of this Agreement, Project Sponsor shall be held liable for reimbursement to the County of all funds not expended in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the County has notified Project Sponsor of such non-compliance. Said reimbursement shall not preclude the County from taking any other action as provided in Articles IV and V herein.
- c. If expenditure does not exceed \$750,000.00 during an operating year, Project Sponsor shall submit to the County within one hundred eighty (180) days after the end of the Project Sponsor's fiscal year, and otherwise upon request by the County, audited financial statements, which must comply with Generally Accepted Accounting Principles (GAAP), covering the entire term of this Agreement. If the Project Sponsor fails to provide its audited financial statements within the one hundred eighty (180) daytime period referenced above, then the Project Sponsor shall be in default hereunder. Notwithstanding the foregoing, the County may grant the Project Sponsor an extension of the one hundred eighty (180) daytime period to provide its audited financials, but such extension shall be solely at the County's reasonable discretion.

#### **ARTICLE XVII. LEGALLY REQUIRED STATEMENT AND PROVISIONS REGARDING ACCESS TO RECORDS FOR CERTAIN SERVICES CONTRACTS**

- a. The Parties acknowledge and agree that the statement and provisions below are required by Florida Statute to be included in this Agreement, and that the inclusion of this statement and provisions below shall not be construed to imply that the Project Sponsor (or Contractor/Service Provider) has been delegated any governmental decision-making authority, governmental responsibility or governmental function or that the Project Sponsor is acting on behalf of the County in any way or capacity whatsoever as provided under Section 119.011(2), Florida Statutes, or that the statement or provisions in this Article are otherwise applicable to the Project Sponsor. As stated below, the Project Sponsor may contact the County's Custodian of Public

Records with questions regarding the application of Public Records Law; however, the Project Sponsor is advised to seek independent legal counsel as to its legal obligations. The County cannot provide the Project Sponsor advice regarding its legal rights or obligations.

**b. IF THE PROJECT SPONSOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROJECT SPONSOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

~~1~~386-758-1326 (telephone number)  
~~1~~icrews@columbiacountyfla.com (email address)  
~~1~~ 135 NE Hernando Avenue, Lake City, FL 32055(mailing address)

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- c. If under this Agreement, the Project Sponsor is providing services and is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, the Project Sponsor will comply with public records law, and agrees to:
- i) Keep and maintain public records required by the County to perform the service.
  - ii) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
  - iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contract if the Project Sponsor does not transfer the records to the County.
  - iv) Upon completion of the Agreement, transfer at no cost to the County, all public records in possession of the Project Sponsor or keep and maintain public records required by the County to perform the service. If the Project Sponsor transfers all public records to the County upon completion of the Agreement, the Project Sponsor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Project Sponsor keeps and maintains public records upon completion of the Agreement, the Project Sponsor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.
- d. Failure of the Project Sponsor to comply with Chapter 119, Florida Statutes, and/or the provisions set forth above, if applicable, shall be grounds for immediate unilateral termination of this Agreement by the County, after reasonable notice and opportunity to cure.

#### **ARTICLE XVIII. EVALUATION AND MONITORING**

- a. The Project Sponsor agrees that the County may monitor and evaluate all aspects of the services provided under this Agreement. The County shall have access to and be able to make copies and transcriptions of such records as may be necessary in the determination of the County to accomplish this obligation, subject to state and federal confidentiality requirements.
- b. In order to properly monitor and evaluate the Project Sponsor's performance under this Agreement, the County shall make on-site inspections and file review as often as it deems necessary. The County shall provide written notice of its intent to inspect records to the Project Sponsor at least 3 business days in advance. Further, the Project Sponsor shall submit an activity report with each reimbursement request which details the progress made to date toward the completion of the activities authorized under **Exhibit A**.
- c. It is understood that the County will rely primarily on the compliance monitoring provided by Florida Housing. Project Sponsor shall provide to the County all Florida Housing compliance monitoring reports.

#### **ARTICLE XIX. PERSONALLY IDENTIFIABLE INFORMATION (PII); SECURITY**

- a. If Project Sponsor or any of its subcontractors may or will create, receive, store, or transmit PII under the terms of this Agreement, the Project Sponsor must provide for the security of such PII, in a form acceptable to the County, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. The Project Sponsor shall take full responsibility for the security of all data in its possession or in the possession of its Project Sponsors or subcontractors and shall hold the County harmless for any damages or liabilities resulting from the unauthorized disclosure of loss thereof.
- b. If the Project Sponsor or any of its Project Sponsors or subcontractors may or will create, receive, store, or transmit PII under the terms of this Agreement, the Project Sponsor shall provide the County with insurance information for stand-alone cyber liability coverage, including the limits available and retention levels. If the Project Sponsor does not carry stand-alone cyber liability coverage, the Project Sponsor agrees to indemnify costs related to notification, legal fees, judgments, settlements, forensic experts, public relations efforts, and loss of any business income related to this Agreement.
- c. The Project Sponsor agrees to maintain written policies and procedures for PII and/or data classification. This plan must include disciplinary processes for employees that violate these guidelines. The Project Sponsor agrees at all times to maintain reasonable network security that, at a minimum, includes a network firewall.
- d. The Project Sponsor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority (e.g., Microsoft notifications, Common Vulnerabilities and Exposures (CVE) database, etc.) The Project Sponsor agrees that PII shall be appropriately destroyed based on the format stored upon the expiration of any applicable retention schedules.

- e. The Project Sponsor agrees that any and all transmission or exchange of system application data with the County and/or any other parties shall take place via secure Advanced Encryption Standards (AES), e.g., HTTPS, FTPS, SFTP or equivalent means. All data stored as a part of backup and recovery processes shall be encrypted, using AES.
- f. If the Project Sponsor reasonably suspects that a cybersecurity event or breach of security has occurred, they must notify the County within 48 hours.
- g. In the event of a breach of PII or other sensitive data, the Project Sponsor must abide by provisions set forth in Section 501.171, Fla. Stats. Additionally, the Project Sponsor must immediately notify the County in writing of the breach and any actions taken in response to such a breach. As the information becomes available the statement must include, at a minimum, the date(s) and number of records affected by unauthorized access, distribution, use, modification, or disclosure of PII; the Project Sponsor's corrective action plan; and the timelines associated with the corrective action plan.

#### **ARTICLE XX. DRUG FREE WORKPLACE**

The Project Sponsor shall assure the County that it will administer, in good faith, a policy designed to ensure that the Project Sponsor is free from the illegal use, possession, or distribution of drugs of alcohol.

#### **ARTICLE XXI. ENVIRONMENTAL REVIEW**

The Project Sponsor further agrees that it shall, upon request of the County, supply the County with the environmental reports obtained by the Project Sponsor relating to the Project for review by the County.

#### **ARTICLE XXII. NEGATION OF AGENT OR EMPLOYEE STATUS**

- a. The Project Sponsor shall perform this Agreement as an independent agent and nothing contained herein shall in any way be construed to constitute the Project Sponsor or any assistant, representative, agent, employee, independent contractor, partner, affiliate, holding company, subsidiary, or subagent of the Project Sponsor to be a representative, agent, subagent, or employee of the County.
- b. The Project Sponsor certifies its understanding that the County is not required to withhold any federal income tax, social security tax, state, and local tax, to secure worker's compensation insurance or employer's liability insurance of any kind, or to take any other action with respect to this insurance or taxes of the Project Sponsor and assistant(s) of the Project Sponsor.
- c. In no event shall any provision of this Agreement make the County or any political subdivision of the State of Florida liable to any person or entity that contracts with or provides goods or services to the Project Sponsor in connection with the services the Project Sponsor has agreed to perform hereunder or otherwise, or for any debts or claims of any nature accruing to any person or entity against the Project Sponsor. There is no contractual relationship, either express or implied, between the County or any political subdivision of the State of Florida and any person or entity supplying any work, labor, services, goods, or materials to the Project Sponsor as a result of the provisions of the services provided by the Project Sponsor hereunder or otherwise.

#### **ARTICLE XXIII. INDEPENDENT CONTRACTORS/THIRD PARTY BENEFICIARIES**



- a. All work authorized under this Agreement that requires a contracting license pursuant to either Part I or Part II, Chapter 489, Florida Statutes, as amended, shall be performed by properly licensed contractors who shall obtain all necessary permits and inspections. The subcontracting of work by the Project Sponsor to properly licensed contractors shall not in any way affect the provisions of this Agreement. Upon request of the County, all contracts between the Project Sponsor and properly licensed contractors for work to be performed under this Agreement shall be in writing, subject to approval by the County and submitted to the Affordable Housing Department prior to issuance of any building permit applications.
- b. This Agreement is for the benefit of the County and the Project Sponsor. No third party is an intended beneficiary entitling that third party person to sue for an alleged breach of this Agreement. The Project Sponsor acknowledges and agrees that it is acting as an independent contractor in performing its obligations hereunder and not as an agent, officer, or employee of the County.

#### **ARTICLE XXIV. INDEMNIFICATION**

The Project Sponsor shall indemnify, hold harmless, and defend the County and the Columbia County Board of County Commissioners, and the respective agents and employees of the County and the Columbia County Board of County Commissioners, hereinafter collectively referred to as the "Indemnified Parties", from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees, that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any act of fraud or defalcation by the Project Sponsor, its agents, subcontractors, assigns, heirs, and employees during performance under this Agreement excluding any negligent, wrongful, or intentional act or omission, act of any fraud or defalcation of the Indemnified Parties, or their officers, members, officials, employees and agents. The extent of this indemnification shall not be limited in any way as to the amount or types of damages or compensation payable to any of the Indemnified Parties on account of any insurance limits contained in any insurance policy procured or provided in connection with this Agreement. In any and all claims against any of the Indemnified Parties by any employee of the Project Sponsor, any subcontractor, heir, assign, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Article shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Project Sponsor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The provisions of this Article shall survive the termination of this Agreement.

In connection with any indemnifiable claim hereunder arising out of a claim by a third party against an Indemnified Party, the Project Sponsor shall be entitled to notice and an opportunity to defend such claim in good faith and with diligence.

#### **ARTICLE XXV. RESERVED**

#### **ARTICLE XXVI. INSURANCE AND BONDING**

- a. The Project Sponsor shall procure and maintain throughout the term of this Agreement on behalf of itself and the County, the insurance specified on, and as required by **Exhibit D** attached hereto and incorporated by reference herein, and as stated below. All insurance shall be from responsible companies duly authorized to do business in the State of Florida.

- b. The Project Sponsor shall ensure that the County and its Board of County Commissioners are named as additional insured parties as to the actions of the Project Sponsor, its employees, agents, assigns, and subcontractors, performing or providing materials and/or services to the Project Sponsor during the performance of this Agreement, on (i) all auto liability policies (if applicable) and general liability policies required to be obtained by the Project Sponsor pursuant to this Agreement, and (ii) all other insurance policies required by this Agreement where such an endorsement is available in the industry. All such insurance policies shall also contain a Severability of Interests provision. Every insurance policy must provide thirty (30) days prior written notice to the County of any cancellation, intent not to renew, or reduction in the policy coverage.

The Project Sponsor shall require the general contractor to provide performance and payment bonds in form and substance acceptable to the County.

#### **ARTICLE XXVII. RECAPTURE OF FUNDS**

Subject to the conditions set forth in this Agreement, it is the intent of the parties that the County shall recapture any Funds provided under this Agreement if the Project is considered in default under any of the provisions in this Agreement, following the expiration of the reasonable opportunity to respond and cure any default as provided for in Article V.

#### **ARTICLE XXVIII. REVERSION OF ASSETS**

Within thirty (30) days following the expiration or termination of this Agreement, the Project Sponsor shall transfer to the County any Funds on hand at the time of expiration or termination of this Agreement if the Funds have not been expended on eligible costs pursuant to this Agreement and any interest income attributable to the use of the Funds.

#### **ARTICLE XXIX. ACCESS TO RECORDS**

If applicable, the Project Sponsor shall comply with the requirements of Chapter 119, Florida Statutes, with respect to any documents, papers, and records made or received by the Project Sponsor in connection with this Agreement.

#### **ARTICLE XXX. SURVIVABILITY/SEVERABILITY**

- a. Any term, condition, covenant, or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.
- b. In the event any section, sentence, clause, or provision of this Agreement is held to be invalid, illegal, or unenforceable by a court having jurisdiction over the matter, the remainder of the Agreement shall not be affected by such determination and shall remain in full force and effect.

#### **ARTICLE XXXI. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

## ARTICLE XXXII. GOVERNING LAWS

Each party covenants and agrees that any and all legal actions arising out of or connected with this Agreement shall be instituted in the Circuit Court of the Third Judicial Circuit, in and for Columbia County, Florida, ~~or in the United States District Court for the North District of Florida~~, as the exclusive forums and venues for any such action, ~~subject to any right of either party to removal from state court to federal court, which is hereby reserved~~, and each party further covenants and agrees that it will not institute any action in any other forum or venue and hereby consents to immediate dismissal or transfer of any such action instituted in any other forum or venue. This Agreement is entered into within, and with reference to the internal laws of, the State of Florida, and shall be governed, construed, and applied in accordance with the internal laws (excluding conflicts of law) of the State of Florida.

## ARTICLE XXXIII. AUTHORIZATION

Each party represents to the other that such party has authority under all applicable laws to enter into an agreement containing such covenants and provisions, that all of the procedural requirements imposed by law upon each party for the approval and authorization of this Agreement have been properly completed, and that the persons who have executed this Agreement are duly authorized and empowered to do so.

## ARTICLE XXXIV. NOTICE AND GENERAL CONDITIONS

All notices which may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service or by certified mail return receipt requested addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time.

### Columbia County

Columbia County, Florida  
Columbia County Board of Commissioners  
649 NE Ralph Greene Street  
Lake City, Florida 32055  
Attn: [Affordable Housing Director]

### Project Sponsor

Sweetwater Housing II, LLC  
c/o DDER Holdings, LLC  
2700 Westhall Lane, Suite 200  
Maitland, Florida 32751  
Attn: Deion Lowery

**AND ALSO, IF TO PROJECT SPONSOR, COPIES TO GENERAL PARTNER,  
ADMINISTRATIVE MEMBER AND INVESTOR MEMBER:**

Revital Sweetwater II, LLC  
3750 Gunn Highway, Suite 104  
Tampa, Florida 33618

DDER Holdings, LLC  
2700 Westhall Lane, Suite 200  
Maitland, Florida 32751

CDC Sweetwater II, LLC  
c/o The Greater Lake City Community  
Development Corporation, Inc.  
363 NW Bascom Norris Drive  
Lake City, Florida 32055

Nelson, Mullins, Riley, & Scarborough, LLP  
390 North Orange Avenue, Suite 1400  
Orlando, FL 32801  
Attn: Randy Alligood, Esq.

**Investor Member:**

PNC Bank  
121 S.W. Morrison Street, Suite 1300  
Portland, Oregon 97204  
Attention: Asset Manager

**With a Copy to:**

Kutak Rock  
1650 Farnam Street  
Omaha, NE 68102  
Attention: Greg Grattan

**ARTICLE XXXV. TERMS**

Capitalized terms contained herein shall have the definition assigned. Capitalized terms contained herein that do not have the definition assigned shall have the meaning assigned in the applicable federal statute or regulation. All article and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

**ARTICLE XXXVI. ESTOPPEL/WAIVER**

A waiver of any performance or default by either party shall not be construed to be a continuing waiver of other defaults or non-performance of the same provision or operate as a waiver of any subsequent default or non-performance of any of the terms, covenants, and conditions of this Agreement. The payment or acceptance of fees for any period after a default shall not be deemed a waiver of any right or acceptance of defective performance.

**ARTICLE XXXVII. MERGER AND MODIFICATIONS**

This Agreement together with the Exhibits embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument executed by the County and the Project Sponsor expressly for that purpose.

**ARTICLE XXXVIII. COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**IN WITNESS HERETO**, the parties herein have caused this Agreement to be executed at the place and on the day specified herein above.

**ATTEST:**  
**CLERK OF THE CIRCUIT COURT**

**COLUMBIA COUNTY, FLORIDA A  
POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA**

BY: \_\_\_\_\_  
**DEPUTY CLERK**

BY: \_\_\_\_\_  
**CHAIR**

**Date:** \_\_\_\_\_

**Signed, sealed, and delivered in the presence of:**

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

Document No.: \_\_\_\_\_

BY: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Witness Signature:

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Name printed or typed

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Deion Lowery, a Manager of DDER Holdings, LLC, a Florida limited liability company, as manager of DDER Sweetwater Housing II Manager, LLC, a Florida limited liability company, as manager of Sweetwater Housing II, LLC, a Florida limited liability company. He/she is personally known to me ☐ or has produced \_\_\_\_\_ (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed, or stamped

My Commission Expires: \_\_\_\_\_

**PROJECT SPONSOR:**

**SWEETWATER HOUSING II, LLC**, a  
Florida limited liability company

By: DDER Sweetwater Housing II  
Manager, LLC, a Florida limited  
liability company, its manager

By: DDER Holdings, LLC, a Florida  
limited liability company, its  
manager

By: \_\_\_\_\_  
Deion Lowery, Manager

## **EXHIBIT “A”**

### **SCOPE OF SERVICES Sweetwater Housing II**

#### **Section I. SERVICES TO BE RENDERED BY PROJECT SPONSOR**

- a. The Funds shall be provided to Project Sponsor under this Agreement to reimburse the Project Sponsor for certain eligible construction costs associated with the construction of a 48-unit affordable rental housing project in Columbia County.
- b. The Project will be constructed on property to be leased by the Project Sponsor at [ ], in unincorporated Columbia County, as more specifically described in **Exhibit “C”** (the “Property”). The Funds shall not be used for acquisition costs.
- c. The Project Sponsor will enter into an agreement with a contractor (the “Project Contractor”) to construct on the Property a forty-eight (48) unit affordable rental development, which will include twenty-four (24) one-bedroom/one-bathroom units and twenty-four (24) two-bedroom/two-bathroom units.
- d. Common amenities to be provided shall include amenities required by Florida Housing under its applicable RFA.
- e. All units constructed shall be in accordance with the Florida Building Code. In addition, the Project Sponsor has committed to achieve one or more of the following Green Building certifications for the Project: Leadership in Energy and Environmental Design (LEED); Florida Green Building Coalition (FGBC); or ICC 700 National Green Building Standard (NGBS).
- f. As a condition of the receipt of Funds hereunder, Project Sponsor shall reserve 10 units for households at or below 50% AMI and 38 units for households at or below 80% AMI for an affordability period of twenty (20) from the last certificate of occupancy awarded to the Project. During the affordability period, the maximum rent allowable for the set-aside unit, based on composition, shall be determined by the Florida Housing Finance Corporation Rent Limit chart for the HHRP program, which is updated annually. It shall be the responsibility of Project Sponsor to verify the income of persons to be residing at each address before executing lease agreements and annually thereafter for the duration of the affordability period. In the event that the Project Sponsor sells the Property before the end of the 15th year of the LURA Term or before termination of the Mortgage whichever is later in compliance with Florida Statute sec. 420.9075(5)(i) the Project Sponsor must give a right of first refusal to eligible nonprofit organizations, as approved by the County, for purchase at the current market value for continued occupancy by eligible persons. Compliance with any more restrictive affordable housing requirements imposed by Florida Housing shall not be a default hereunder.
- g. For purposes of this Agreement, Project completion means that the certificate of initial occupancy has been issued and the Project completion information has been submitted to the County. The eligibility requirements apply without regard to the transfer of ownership.
- h. The maximum allowable HHRP rents must be reduced if the tenant pays for utilities. The utility allowance schedule prepared by the local public housing authority or utility allowances prepared specific to the Project, upon approval of the County, should be used in the maximum rent



determination for the HHRP units. The Project Sponsor may also comply with the gross rent and utility allowance requirements of the Low Income Housing Tax Credit ("LIHTC") program as administered by Florida Housing.

- i. The Project Sponsor will determine each tenant's eligibility by initially confirming the tenant's annual income and will continue to comply with tenant income determinations in accordance with Section 420.9071, Florida Statutes. The total household income of any respective tenants will be determined and verified for compliance with these income limits prior to occupancy. The County will be responsible for monitoring affordability and annual tenant recap reports required under the housing credit program.
- j. The affordability requirements herein shall be more specifically reflected in a Land Use Restriction Agreement, in form and substance acceptable to the County, which shall be executed by the Project Sponsor and recorded in the public records of Columbia County.

## **Section II. PAYMENT SCHEDULE**

- a. The County will reimburse the Project Sponsor with Funds for allowable construction expenses, as determined by the County, and as set forth in this Agreement.
- b. Requests for reimbursement must be submitted to the County's Affordable Housing Services Department in substantially the same format as **Exhibit "B."** All requests for reimbursement must comply with the requirements in Article III of this Agreement, specify the line-item for which reimbursement is being requested and must be accompanied by copies of paid bills, receipts, copies of signed checks, staff timesheets, lease agreements or other means of proving work was completed and paid for by Project Sponsor. All requests for reimbursement must be made no later than fifteen (15) days after the funding expenditure deadline defined in Article II of this Agreement.
- c. Each request for reimbursement shall be accompanied by a certification from the Project Contractor, including lien releases and waivers from both the contractor and subcontractor, and approved by the Project Sponsor that the request is for expenses that have been incurred. The Project Sponsor may not request reimbursement of Funds under this Agreement unless the funds are for repayment of eligible HHRP costs and the amount of each reimbursement request shall be limited to the amount expended. Advance disbursements of Funds are not allowed under this Agreement.
- d. In no event shall the total amount of consideration paid under the Agreement exceed \$743,924 of HHRP funds and \$500,000 of general revenue funds.
- e. Project Sponsor shall maintain all such records, accounts, property records, and personnel records as are deemed necessary by County to assure proper accounting of project funds and compliance with the provisions of this Agreement. Project Sponsor shall also maintain financial and program records as follows:
  - 1. Items purchased and paid for through standard Project Sponsor procedure - an invoice and copy of the endorsed check issued for payment.
  - 2. Contractual Agreements - Contracts, billings, and copies of warrants.
  - 3. Any materials drawn from stockpile - Records indicating the amount of material and cost based on the purchase price.

4. Capital expenditures in excess of ten thousand (\$10,000) - Description, model, serial number, date of acquisition, and cost of acquisition, if applicable.
  - a. Proper documentation and verification of income and assets of persons served.
- f. Flexibility of costs between project budget categories shall not be allowed and funds made available for expenditure under one project budget category shall not be used to pay costs incurred under any other project category budget except upon prior written consent of the County in the form of a Budget Realignment Memo signed by the County Administrator or by his/her designee. Flexibility of line-item costs will be allowed provided there is no increase in total project cost as set forth in Article I, Scope of Services of this Agreement and provided that any request for change is submitted in writing and approved by written consent of the Affordable Housing Services Department Director or by his/her designee. Notwithstanding the foregoing, as long as the funds provided hereunder are used for eligible costs, line items may be reallocated to other line items as long as permitted by any senior mortgagee and the budget remains in balance.
- g. The Project Sponsor shall, if applicable, comply with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes, including the limitations in sec. 218.735(8), Fla. Stats., on withholding a retainage of more than 5 percent. The Project Sponsor shall require its contractors to comply with all applicable provisions of the Local Government Prompt Payment Act. *(Pursuant to sec. 218.735(8)(e), Fla. Stats., this subparagraph (g) does not apply to this Project because the Project is paid for, in part, with federal funds and is either subject to federal grantor laws and regulations or requirements contrary to the retainage provisions of the Local Government Prompt Payment Act).*

### **Section III. TIMELY EXPEDITURE OF FUNDS**

- a. Funds must be spent in a timely manner as referenced in **Article V** (Default and Termination of Non-Performance). Unless an alternative Expenditure Schedule, **Exhibit F**, has been approved in writing by the County, funds must be expended at minimum in the following manner:
  - i. 50%: no later than October 31, 2025
  - ii. 100%: no later than June 30, 2026
  - iii. Units Occupied: no later than December 31, 2026.
- b. In the event that the Project Sponsor fails to meet any of the approved expenditure deadlines or performance measures, the County may require the Project Sponsor to comply with any combination of the following corrective measures:
  - Accept technical assistance from the County, including regular on-site monitoring by the County.
  - Provide a written plan for expending funds and providing required services (Expenditure Plan, within no more than 10 working days of the request for an Expenditure Plan, or within such other amount of time established by AHS and consistent with the requirements of **Article V** of this Agreement.
  - Provided weekly, written performance and expenditure updates to the County.

- c. In the event that AHS determines that the Project Sponsor has either: (1) failed to successfully implement the corrective measure imposed by the County, or (2) provided an Expenditure Plan, which, in the discretion of AHS, will not be sufficient to bring the Project into compliance with the Agreement, AHS may, consistent with the requirements of **Article V** of this Agreement, reduce the funds awarded under this Agreement to an amount not less than the amount necessary to compensate the Project Sponsor for the eligible services actually provided, or for eligible for expenses incurred as of the date of the reduction. A reduction in the maximum amount of Funds as set forth in this Section shall not require an amendment to the Agreement.
- d. In the event of cancellation of this Agreement due to non-performance that results in the ineligibility of the activities funded and funds expended under this Agreement, the Project Sponsor shall be required to repay the Funds to the County.
- e. The election to reduce the Funds awarded or to cancel the Agreement shall be solely in the discretion of the County and shall be based upon the units of service provided by the Project Sponsor as of the date of the County's request for, and approval of the Expenditure Plan.
- f. The County shall notify the Project Sponsor of its decision to reduce the maximum amount of the Funds awarded pursuant to this Agreement in writing and within (10) working days of receipt of the Expenditure Plan. A reduction in the maximum amount of Funds as set forth in the Section shall not require an amendment to the Agreement.

#### **Section IV. PROCEDURE**

- a. Schedule of Values

Prior to submitting the first Application for Payment, the Project Sponsor shall submit to the County a final schedule of values and construction schedule for all activities of the Scope of Work detailed in **Exhibit "A"**. The schedule shall be satisfactory in form and substance to the County and shall subdivide the work into component parts in sufficient detail to serve as the basis for measuring the work in place and calculating amounts for progress payments during construction. Unsupported or unreasonable allocation of costs to any one activity shall be justification for rejection of the schedule. No payment will be made until the schedule of value has been submitted and approved by the County. The Application for Payment shall delineate all activities on the schedule, the value of each, previous percentage completed approved, current percentage completed requested, and value of percentage requested. The construction schedule shall be provided on a monthly basis detailing the projection of the work completed to date.

- b. Application for Payment (AFP)

Each progress payment shall be accompanied by an AIA Form G-702 certification from the Project Contractor for expenses having been incurred on this Project. Copies of paid invoices, endorsed checks, construction vouchers, or other means of establishing work has been completed must be submitted by the Project Sponsor. The AFP, when submitted, shall be filled out accurately and signed by the Project Sponsor, covering the work completed as of the date the AFP and supported by such data as reasonably required by the County. The Project Sponsor shall certify in writing that all subcontractors and suppliers have been paid for acceptable work and materials from previous progress payments received (less any retainage) or from other project sources prior to receipt of any progress payments. If payment is requested on the basis of materials and/or equipment not incorporated in the work, but delivered and suitably stored at the construction site or another location agreed to

in writing, the AFP shall also be accompanied by such supporting data as will establish the Project Sponsor's interest in the material and equipment and protect its interest therein. Disbursements of Funds shall not be made until the County approves the request for payment and, if required by the County, inspects the work completed. If all conditions are met, and the work performed and materials supplied are satisfactory to the County and after concurrence by the Project Sponsor, the Project Sponsor shall receive payment.

c. Inspection and Approval

Beginning with the Project Sponsor's second request for payment, or within 45 days of payment of the Funds to the Project Sponsor if all the Funds are paid to the Project Sponsor in a single draw, the Project Sponsor, if requested by the County, shall submit a Contractor's Statement of Satisfaction or lien waivers which shall be applicable to both the general contractor and all subcontractors, certifying that all monies due have been paid. This notice must be signed and witnessed by a Notary Seal. In addition, the County may elect to perform on-site inspections to verify progress.

d. General Contractor

The Project Sponsor shall submit to the County a copy of the Project Contractor's agreement for services.

b. Substantial Completion

When the Project Sponsor believes the development activities are substantially complete, it shall certify as such in writing notifying the County and the County will, if required by the County, make an inspection of the construction to determine the status of completion. If the County considers the construction complete, it will provide written notice in concurrence. If the County does not consider the construction substantially complete, the County will provide written notification to the Project Sponsor listing the specific reasons. However, substantial completion cannot occur until all conditions necessary for safe and proper use, occupancy, maintenance and operations are in place.

c. Final Completion

Upon written notice from the Project Sponsor that the construction is complete, the County shall, if required by the County, schedule a final inspection with the Project Sponsor and any other personnel requested by the County. The County shall notify the Project Sponsor in writing of any work this inspection reveals to be defective, or otherwise not in accordance with Agreement or applicable codes and standards of the County. If such notice is received, the Project Sponsor shall take immediate action as deemed necessary to remedy such defects and bring the construction into full compliance with the Agreement. Final completion of the work shall be achieved by the Project Sponsor only when the County determines that all work required under the Agreement has been satisfactorily completed.

g. Application for Final Payment (AFFP)

**This subsection shall not be applicable in the event that all of the Funds are paid to the Project Sponsor in a single draw.** The application for final payment shall be accompanied by 1) the Project Sponsor's affidavit of payment of any debts and claims from the subcontractors, general contractor or other entities associated with the construction, 2) a Certificate for Final Completion, including the final inspection report, 3) a certificate of occupancy for each building, and 4) a copy of the general contractors' and all subcontractors' statements of satisfaction or lien waivers. If on the basis of observation including final inspection, review of the Application for Final Payment (AFFP) and all other required documents, the County is satisfied that the construction has been completed and the Project

Sponsor has fulfilled its obligations under the Agreement, final payment will be made. Otherwise, the County will return the AFFP to the Project Sponsor indicating in writing the reason(s) for refusing to approve final payment, in which case the Project Sponsor will make necessary corrections and resubmit the AFFP for approval.

## **Section V. PROJECT SCHEDULE**

It is anticipated that the construction work defined for the Project will begin on or before **December 31, 2024** and the construction shall be completed by **June 30, 2026**. The funding expenditure deadline for this Agreement is **June 30, 2026**. The Project Sponsor shall notify the Affordable Housing Services Department of any circumstances that may cause any delay to the Project as soon as reasonably possible. As necessary, the County shall cooperate with Project Sponsor to provide proof to senior lenders for the Project that applicable time periods, completion dates and maturity dates are extended, within the limitations of the HHRP Regulations.

## **Section VI. PERFORMANCE MEASURES**

The overall goal of this Project is to provide affordable, decent, and safe housing for low and very-low-income residents of Columbia County, as outlined in Exhibit "A", Section I. of this Agreement.

## **Section VII. PROJECT REPORTS**

The Project Sponsor shall provide the reports to Affordable Housing Services throughout various stages of the Project as follows:

- a. Construction - The Project Sponsor shall submit to the County within fifteen (15) days from the end of each month, a monthly report in substantially the same format as set forth in **Exhibit "E"**, attached hereto.
- b. Lease-up - The Project Sponsor shall provide initial occupancy information for each tenant occupying a HHRP unit in substantially the same format as set forth in **Exhibit "F"**, attached hereto.
- c. Annually - The Project Sponsor shall submit to the County annual reports including but not limited to updated insurance information, a financial audit pursuant to Article XVI of the Agreement, and the Occupancy and Rent Reporting Form in substantially the same format as set forth in **Exhibit "F"**.
- d. During construction, the Project Sponsor shall submit to the County a Monthly Progress Report detailing the construction activity. Once the Project is completed the Project Sponsor shall submit a report on the tenure of the units shown in **Exhibit "E"** page 2. This report will provide information detailing the number of households served by income category, age, family size, and race, and data regarding any special needs populations for tenants occupying HHRP units. This report will be provided monthly until all of the units are occupied. The Project Sponsor should report on any support services available to the residents of affordable housing provided by local programs.
- e. Annual documents during the affordability period shall be submitted to the Affordable Housing Services Department. These annual documents include: 1) Annual Housing reports submitted to the Florida Housing Finance Corporation and/or Columbia Housing Finance Authority, 2) Insurance Certificates on the subject property, and 3) annual audit prepared according to Article XVI of this Agreement.

- f. Notwithstanding the foregoing, if the Project Sponsor provides to the County copies of the reports the Project Sponsor is required to provide to Florida Housing, then the Project Sponsor shall be deemed to be in compliance herewith.

#### **Section VII. EMERGENCY DUTY/INCIDENT MANAGEMENT**

- a. Pursuant to a Federal, State or local government Declared State of Emergency, the County may order any action necessary to abate a threat or danger that it determines may be an imminent and substantial endangerment to human health, public safety, the general welfare of individuals or the environment because of an actual or impending disaster.
- b. In the event of a disaster or major incident, the Project Sponsor may be required to assist in response and recovery efforts to include sharing of information, partnering with for use of the Project Sponsor's resources and coordination of any actions deemed necessary to augment the County's response and/or recovery efforts subject to federal and Florida Housing requirements. The Project Sponsor agrees to assist in disaster response and recovery efforts to the best of their ability.
- c. The Project Sponsor further agrees that, under this Agreement, suspension of its usual and customary activities as well as the activities defined under the scope of this agreement may be required. It also may be necessary for the Department to reallocate funds designated to the Project Sponsor for the purposes of emergency situation management operations. Project funds will be reallocated to the Project Sponsor in the amount deobligated under the suspension after the emergency management is declared completed.

**End Exhibit "A"**

**EXHIBIT “B”**  
**REQUEST FOR PAYMENT**  
**Casa Di Francesco Apartments**

**PROJECT SPONSOR:** Sweetwater Housing II, LLC, Ltd. **BOCC DOC NO:** \_\_\_\_\_  
**PROJECT NAME:** Sweetwater Housing Apartments  
**FOR THE MONTH OF:** \_\_\_\_\_ **REQUEST NO:** \_\_\_\_\_

**FINANCIAL STATUS REPORT:**

BUDGET CATEGORIES	TOTAL APPROVED BUDGET	EXPENDITURES			REMAINING BALANCE
		Previous Payments:	AMOUNT OF THIS REQUEST:	Payments made to Date:	
Hard and Soft Construction Costs	\$1,243,924.00				
<b>TOTAL AMOUNT PAID</b>	<b>\$</b>				

I certify that the goods and/or services covered by this request have been provided to Columbia County in accordance with the terms and conditions of the contracts and are documented by the attachment(s).

\_\_\_\_\_  
AUTHORIZED SIGNATURE/ Date

Please attach documentation substantiating expenditures.

\_\_\_\_\_

**End Exhibit “B”**

**EXHIBIT “C”**

**LEGAL DESCRIPTION  
Sweetwater Housing Apartments**

**Folio Number:**

**Property Address:**

**Legal Description:**

**End of Exhibit “C”**



**EXHIBIT “D”  
INSURANCE REQUIREMENTS  
Sweetwater Housing Apartments**

The following insurance requirements and limits of liability are required:

A. Worker’s Compensation (as required by Florida statute) & Employers’ Liability Insurance:

Employer’s Liability	N/A	Limit each accident
	N/A	Limit Disease Aggregate
	N/A	Limit Disease each employee

B. Commercial General Liability Insurance:

General Aggregate	\$2,000,000.00
Products and Completed Operations	N/A
Personal and Advertising Injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00
Fire Damage (any one fire)	N/A

C. Business Automobile Liability Insurance “ANY AUTO” coverage if applicable:

Bodily Injury & Property Damage Liability: \$1,000,000.00 - Combined Single Limit Each Accident

D. Builder’s Risk is required.

E. Professional Liability: \$N/A per claim.

\* General Liability and Auto Liability Insurance must include “Columbia County, a political subdivision of the State of Florida” as an Additional Insured.

\*\*All insurance policies must include standard fire and extended coverage in amounts not less than necessary to comply with the coinsurance clause. All such insurance shall be carried by companies approved by the County, and all policies shall be in such form and shall have attached hereto loss payable clauses in favor of “Columbia County, a political subdivision of the State of Florida” and any other parties as shall be satisfactory to the County. The County shall be listed as an additional insured on all such insurance policies.

FLOOD INSURANCE. *(Required whenever the property is located in an area of special flood hazards in which flood insurance is available under the National Flood Insurance Act.)*

☐ REQUIRED ☒ NOT REQUIRED

Flood insurance shall be provided for the subject property during the term of the mortgage loan. The insurance shall be in an amount at least equal to the outstanding principal balance of all mortgage(s), or the maximum amount of insurance available with respect to the project under the National Flood Insurance Act, whichever is lesser.

End Exhibit “D”

**EXHIBIT “E”  
MONTHLY REPORTING  
Sweetwater Housing Apartments**

**I. Month** \_\_\_\_\_

*Reports are due to the Affordable Housing Services Department by the 15th day of the month following the reporting month. The report is submitted even with no activity on the project and briefly describes the circumstances of no activity.*

FUNDING SOURCE	PROJECT COSTS	FUNDS EXPENDED THIS MONTH	REMAINING BALANCE OF FUNDS	PERCENTAGE OF FUNDS EXPENDED%
HHRP Allocation	\$ 743,924, <del>000</del> .00			
Other County Funds	\$500,000.00			
Other Funds				
Total Project Costs				

Briefly describe the project accomplishments this month:

Please briefly note project status/delays: (Attach additional page, if necessary)

**II.**

Do you need technical assistance?      Yes    ☐      No    ☐

If yes, please specify:

***I certify the information contained in this report is accurate and the program is operating according to the terms, guidelines and requirements set forth in the Recipient Agreement.***

SIGNATURE of person preparing report: \_\_\_\_\_

Print Name: \_\_\_\_\_ Email: \_\_\_\_\_

HHRP - Project Report											Reporting Period:					I certify the data in this document is true and accurate.  _____ Name  _____ Date:			
Project Name			Fiscal Year		Address			County Subsidy			Total Estimated Project Cost								
Sweetwater Housing Apartments			FY__					\$			\$								
Contact Person					County Approval														
Shawn Wilson																			
Short Description																			
HHRP Subsidy per unit \$821.42								SHIP Strategy: II- Multi-Family New Construction											
Unit Characteristics- per bedroom				Head of Household Age				Family Size			Race of Head of Household								
Very Low /Low	BR	Unit Number	Rent Amount	0-25	26-40	41-61	62+	1	2 to 4	5+	Am. Indian	Asian	Black	Hispanic	White	Devel. Disabled	Special Needs	Sp Target	
50%																			
80%																			
Total																			
Submitted by:																			
Date:																			

EXHIBIT “F”

## EXHIBIT “G”

### **EQUAL EMPLOYMENT OPPORTUNITY - APPLICABLE STATUTES, ORDERS AND REGULATIONS\***

#### **Casa Di Francesco Apartments**

##### **COLUMBIA COUNTY, FL**

- Columbia County Human Rights Ordinance, Columbia County Code of Ordinances and Laws, Part A, Chapter 30, Article II, as amended, prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, in employment, public accommodations, real estate transactions and practices, County contracting and procurement activities, and credit extension practices.
- Columbia County Home Rule Charter, Article IX, Section 9.11, as amended, provides that no person shall be deprived of any right because of race, sex, age, national origin, religion, disability, or political affiliation. Printed in Columbia County Code of Ordinances and Laws, Part A.

##### **STATE (as and if applicable)**

- Florida Constitution, Preamble and Article I, § 2 protect citizens from being deprived of inalienable rights because of race, religion, national origin, or physical disability.
- Florida Statutes § 112.042, requires nondiscrimination in employment by counties and municipalities, on the basis of race, color, national origin, sex, handicap, or religion.
- Florida Statutes § 112.043, prohibits age discrimination in employment.
- Florida Statutes § 413.08, provides for rights of an individual with a disability and prohibits discrimination against persons with disabilities in employment and housing accommodations.
- Florida Statutes § 448.07, prohibits wage rate discrimination on the basis of sex.
- Florida Civil Rights Act of 1992, Florida Statutes §§760.01 – 760.11, as amended.
- Florida Statutes §509.092, prohibits refusing access to public lodging on the basis of race, creed, color, sex, physical disability or national origin.
- Florida Statutes §725.07, prohibits discrimination on the basis of sex, marital status or race in loaning money, granting credit or providing equal pay for equal services performed.
- Florida Fair Housing Act, Florida Statutes §§760.20 – 760.37.
- Florida Statutes §760.40, provides for the confidentiality of genetic testing.
- Florida Statutes §760.50, prohibits discrimination on the basis of AIDS, AIDS-related complex, and HIV.
- Florida Statutes §760.51, provides for remedies and civil penalties for violations of civil rights.
- Florida Statutes §760.60, prohibits discriminatory practices of certain clubs.
- Florida Statutes §760.80, provides for minority representation on boards, commissions, council, and committees.

##### **FEDERAL (as and if applicable)**

- Section 1 of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, § 1.
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.
- Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., as amended by the Equal Employment Opportunity Acts of 1972 and 1975, the Civil Rights Act of 1991, P. L. 102-166, 105 Stat. 1071, and the Lilly Ledbetter Fair Pay Act of 2009, P. L. 111-2, 123 Stat. 5.
- Civil Rights Act of 1866 and the Enforcement Act of 1870, 14 Stat. 27 and 16 Stat. 140, 42 U.S.C. § 1981.
- Title VIII of the Civil Rights Act of 1968, Fair Housing Act, P. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601 et seq.
- Civil Rights Restoration Act of 1987, P. L. 100-259, 102 Stat. 28.
- Civil Rights Act of 1991, P. L. 102-166, 105 Stat. 1071.
- Equal Opportunity Regulations, 41 CFR § 60-1.4, as amended.
- Standards for a Merit System of Personnel Administration, 5 CFR § 900.601 et seq.
- Executive Order 11246, Equal Employment Opportunity, and its implementing regulations, including 41 CFR § 60-2 (Revised Order 4).
- Rehabilitation Act of 1973, P. L. 93-112, 87 Stat. 355, as amended.
- Interagency Agreement promulgated on March 23, 1973.
- Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws.
- Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., P. L. 90-202, as amended.
- Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., P. L. 94-135, 89 Stat. 728, as amended.
- Older Americans Amendments of 1975, 42 U.S.C. § 3001 et seq., P. L. 94-135, 89 Stat. 713.
- Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as amended by the ADA Amendments Act of 2008, P. L. 110-325, 122 Stat. 3553.

---- Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212, as amended.  
 ---- Section 14001 of Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.  
 ---- State and Local Assistance Act of 1972, as amended.  
 ---- Office of Management and Budget Circular A-102, Grants and Cooperative Agreements with State and Local Governments, as amended.  
 ---- Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 40 C.F.R. §§ 5.100 -5.605.  
 ---- Executive Order 13673, Fair Pay and Safe Workplaces.

**\*The above are not intended to be a complete list of all applicable local, state, or federal statutes, orders, rules or regulations, as they may be amended from time-to-time, or added to (newly promulgated) from time-to-time, during the term of this contract.**

If applicable, and required by 41 CFR 60-1.4 or other federal law or regulation, during the performance of this contract, the Project Sponsor (referred to in this Exhibit as "contractor"), agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be

imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**End of Exhibit 'G'**

**EXHIBIT “H”**  
**Intentionally Omitted/Not Applicable**

