

RESOLUTION NO. 16-03

RESOLUTION REGARDING THE OFFICIAL ACTION OF THE HOUSING FINANCE AUTHORITY OF MANATEE COUNTY, FLORIDA RELATIVE TO THE ISSUANCE OF NOT TO EXCEED \$25,000,000 IN INITIAL PRINCIPAL AMOUNT OF ONE OR MORE GOVERNMENTAL LENDER NOTES AND THE ISSUANCE OF TAXABLE DEBT IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$3,000,000 FOR THE PURPOSE OF ACQUIRING, REHABILITATING, EQUIPPING, AND DEVELOPING A MULTIFAMILY RESIDENTIAL HOUSING FACILITY AND SINGLE FAMILY RENTAL HOMES FOR PERSONS OR FAMILIES OF LOW, MIDDLE OR MODERATE INCOME; FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AUTHORITY AND BRADENTON LEASED HOUSING ASSOCIATES III, LLLP; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bradenton Leased Housing Associates III, LLLP, a Minnesota limited liability limited partnership (the “Company”) has applied to the Housing Finance Authority of Manatee County, Florida (the “Authority”) to (i) issue its governmental lender notes in a principal amount not to exceed \$25,000,000 (the “Notes”) and the possible issuance of taxable debt in the principal amount of not exceeding \$3,000,000 (the “Taxable Debt”) for the purpose of financing a portion of the costs of the acquisition, rehabilitation, equipping and development of a 178 unit multifamily residential housing facility known as “River Trace Apartments” and 40 single family homes utilized and to be utilized for rental housing and known as “Manatee Pond Apartments” for persons or families of low, middle or moderate income to be located in Bradenton, Florida (collectively, the “Project”), and (ii) to loan the proceeds of the Notes and Taxable Debt to the Company pursuant to Chapter 159, Part IV, Florida Statutes, or such other applicable provision or provisions of Florida law (the “Act”); and

WHEREAS, subject to the terms set forth herein and in the Memorandum of Agreement attached hereto as Exhibit A, the Company has requested that the Authority make a determination to issue the Notes and Taxable Debt under the Act in one or more issues or series not exceeding an aggregate principal amount of \$28,000,000 (not exceeding \$25,000,000 in Notes and not exceeding \$3,000,000 in Taxable Debt) and to loan the proceeds thereof available to finance a portion of the Project under a project loan agreement or other financing agreement which will provide that payments thereunder be at least sufficient to pay the principal of and interest and redemption premium, if any, on such Notes, Taxable Debt and such other costs in connection therewith as may be incurred by the Authority, to assist the Company and promote the purposes provided in the Act; and

WHEREAS, the Company has reviewed the Memorandum of Agreement relating to the issuance of the Notes and Taxable Debt, attached hereto; and

WHEREAS, in order to satisfy certain of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, the Authority will on this date hold a public hearing on the proposed issuance of the Notes for the purposes herein stated, which date is at least 14 days following the publication of a notice of such public hearing in a newspaper of general circulation in Manatee County, Florida (an affidavit of the Herald regarding the previous publication of such notice is attached hereto as Exhibit B). Such public hearing, which will occur prior to the adoption of this Resolution, will be conducted in a manner that provides a reasonable opportunity for persons with differing views to be heard, both orally and in writing, on both the issuance of such Notes and the location and nature of the portion of the Project to be financed with the proceeds therefrom; and

WHEREAS, it is intended that this Resolution shall constitute official action toward the issuance of the Notes within the meaning of the Internal Revenue Code of 1986, as amended, and applicable United States Treasury Regulations.

IT IS, THEREFORE, DETERMINED AND RESOLVED BY THE HOUSING FINANCE AUTHORITY OF MANATEE COUNTY, FLORIDA, THAT:

1. **APPROVAL OF THE PROJECT.** The acquisition, rehabilitation, equipping and development of the Project and the financing thereof by the Authority through the issuance of the Notes and Taxable Debt, pursuant to the Act, will promote the health and welfare of the citizens of Manatee County, Florida, and will thereby serve the public purposes of the Act.

2. **EXECUTION AND DELIVERY OF THE MEMORANDUM OF AGREEMENT.** The Chairman or any Vice Chairman of the Authority hereby are authorized and directed to execute, for and on behalf of the Authority, the Memorandum of Agreement attached hereto as Exhibit A between the Authority and the Company providing understandings relative to the proposed issuance of the Notes and Taxable Debt by the Authority to finance a portion of the Project in an aggregate principal amount of not to exceed \$28,000,000.

3. **AUTHORIZATION OF THE NOTES AND TAXABLE DEBT.** Subject to the terms and conditions set forth herein and in the Memorandum of Agreement attached hereto, there is hereby authorized to be issued and the Authority hereby determines to issue the Notes and Taxable Debt, if so requested by the Company, in one or more issues or series in an aggregate principal amount not to exceed of \$28,000,000 for the purpose of financing a portion of the Project described in such Memorandum of Agreement. The Notes shall be designated the "Housing Finance Authority of Manatee County, Florida Governmental Lender Note." The Taxable Debt shall take such form as determined by Bond Counsel and Authority Counsel. The Authority understands that the Company may obtain the \$3,000,000 in taxable debt by another lender. The rates of interest payable on the Notes and Taxable Debt shall not exceed the rate permitted by law.

4. **RECOMMENDATION FOR APPROVAL TO BOARD OF COUNTY COMMISSIONERS.** The Authority hereby recommends that the Board of County Commissioners of Manatee County, Florida (the "Board") approve the issuance of the Notes and the financing of the Project. The Authority hereby directs the Chairman, any Vice Chairman or Authority's Counsel, either alone or jointly, at the expense of the Company, to seek approval for

the issuance of the Notes and the financing of the Project by the Board as the applicable elected representatives of Manatee County, Florida, under and pursuant to the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended.

5. **GENERAL AUTHORIZATION.** The Chairman, the 1st Vice Chairman, 2nd Vice Chairman and 3rd Vice Chairman, the Secretary-Treasurer and counsel for the Authority hereby are further authorized to proceed, upon execution of the Memorandum of Agreement, with the undertakings provided for therein on the part of the Authority and are further authorized to take such steps and actions as may be required and necessary in order to cause the Authority to issue the Notes and, if applicable, the Taxable Debt, subject to the terms and conditions set forth herein and in the Memorandum of Agreement authorized hereby.

6. **AFFIRMATIVE ACTION.** This resolution is an affirmative action of the Authority toward the issuance of the Notes and Taxable Debt, as contemplated in said Memorandum of Agreement, in accordance with the purposes of the laws of the State of Florida and the applicable United States Treasury Regulations with respect to the Notes.

7. **APPROVAL OF NOTICE OF PUBLIC HEARING.** The form notice of public hearing, as evidenced by the newspaper affidavit attached hereto as Exhibit B, is hereby ratified and confirmed.

8. **APPOINTMENT OF COUNSEL.** The firm of Greenberg Traurig, P.A. is duly appointed Bond Counsel in connection with the issuance of the Notes and Taxable Debt. Angela A. Abbott, P.A., is duly appointed Issuer's Counsel.

9. **LIMITED OBLIGATIONS.** The Notes and Taxable Debt and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of the Authority, the City of Bradenton, Florida, Manatee County, the State of Florida or any other political subdivision or agency thereof but shall be payable solely from the revenue pledged therefor pursuant to a project loan agreement or other financing agreement entered into by and between the Authority and the Company prior to or contemporaneously with the issuance of the Notes and Taxable Debt.

10. **LIMITED APPROVAL.** The approval given herein shall not be construed as an approval of any necessary zoning applications nor for any other regulatory permits relating to the Project, and the Authority shall not be construed by reason of its adoption of this Resolution to have waived any right of the County and/or of any city in which the proposed Project is to be located or to have estopped the County and/or such city, if any, from asserting any rights or responsibilities it may have in that regard. In addition, this Resolution and the Memorandum of Agreement attached hereto as Exhibit A are conditioned upon and subject to: (1) the determination by the Authority, in its sole and absolute discretion that it is in the best interests of the Authority and the residents of Manatee County, Florida, to use the tax exempt volume cap allocation potentially available to the Authority to issue the Notes; (2) receipt of the necessary volume cap tax exempt allocation from the State of Florida, Division of Bond Finance; (3) receipt of the approval of the Project and the proposed financing of the Project by the Authority; (4) the ownership and control of the Company and its principals not varying more than five (5%) percent from what has been represented to the Authority in the Company's Application

(excluding the admission of a tax-credit limited partner); (5) the number of multi-family units to be rehabilitated by the Company not decreasing by more than five (5%) percent from the 218 units referenced in the Company's Application; and (6) the closing of the Notes occurring on or before one hundred and fifty (150) days after receipt of volume cap allocation from the State of Florida Division of Bond Finance, unless extended by the Authority in its sole and absolute discretion. In the event that any of the foregoing events shall not take place, if applicable, or shall occur or take place, if applicable, it shall operate as a termination of this Resolution and the Memorandum of Agreement.

11. **NOTE ALLOCATION.** Upon a determination by the Authority as set forth in the Memorandum of Agreement to request private activity allocation with respect to such Notes, the Chairman, 1st Vice Chairman, 2nd Vice Chairman or Authority's Counsel are hereby authorized to execute all necessary documents for obtaining and preserving an allocation from the State of Florida, Division of Bond Finance upon request by the Company.

This Resolution shall take effect immediately.

ADOPTED this 17th day of November, 2016.

**HOUSING FINANCE AUTHORITY OF
MANATEE COUNTY, FLORIDA**

(SEAL)

By: _____
Paul Sharff, Chairman

ATTEST:

By: _____
Secretary-Treasurer

EXHIBIT A

MEMORANDUM OF AGREEMENT FOR ISSUANCE OF MULTIFAMILY GOVERNMENTAL LENDER NOTES AND TAXABLE DEBT

This Agreement between the Housing Finance Authority of Manatee County, Florida (the “Authority”), a body corporate and politic of the State of Florida and Bradenton Leased Housing Associates III, LLLP (the “Company”), a limited liability limited partnership organized and validly existing under the laws of the State of Minnesota and authorized to do business in the State of Florida.

WITNESSETH:

1. **PRELIMINARY STATEMENT.** Among the matters of mutual understanding which have resulted in the execution of this Memorandum of Agreement are the following:

(a) The Florida Housing Finance Authority Law (Chapter 159, Part IV, Florida Statutes), as amended, and other provisions of applicable law (the “Act”) and the policies and procedures of the Authority in effect on the date hereof (herein “Authority Guidelines”) provides that the Authority may issue its revenue bonds and notes and loan the proceeds thereof to one or more persons, firms or private corporations, or use such proceeds to defray the cost of acquiring, by purchase or construction, certain qualifying facilities.

(b) The Company is considering acquiring, rehabilitating, equipping and developing a 178 unit multifamily residential housing facility known as River Trace Apartments and 40 single family homes utilized for rental housing known as Manatee Pond Apartments Project for persons or families of low, middle or moderate income (collectively, the “Project”) to be located within the boundaries of the City of Bradenton, Florida. It is estimated that the cost of the acquisition, rehabilitation, equipping and development of the Project will be in excess of \$28,000,000.

(c) The Authority intends this Memorandum of Agreement to constitute its official binding commitment, subject to the terms and conditions set forth herein and in the Resolution authorizing the Authority to enter into this Memorandum of Agreement, to issue its governmental lender notes in a principal amount not to exceed of \$25,000,000 (the “Notes”) and possible taxable debt in the principal amount of not exceeding \$3,000,000 (the “Taxable Debt”) in one or more series or issues pursuant to the Act and Authority Guidelines in an amount to be agreed upon by the Authority and the Company and to loan the proceeds thereof to the Company, and to use such proceeds to finance a portion of the cost of acquiring, rehabilitating, equipping and developing the Project, including all costs incurred in connection with the issuance of the Notes and Taxable Debt by the Authority, up to an amount not to exceed \$28,000,000.

(d) The Authority considers the issuance and sale of the Notes and Taxable Debt, for the purpose hereinabove set forth, consistent with the objectives of the Act. This commitment is an affirmative official action of the Authority toward the issuance of the Notes

and Taxable Debt as herein contemplated in accordance with the purposes of the Act, the Internal Revenue Code of 1986, as amended, and the applicable United States Treasury Regulations.

2. **UNDERTAKINGS ON THE PART OF THE AUTHORITY.** Subject to the terms and conditions set forth herein and in the Authority's Resolution dated November 17, 2016 (the "Inducement Resolution") authorizing the Authority to enter into this Memorandum of Agreement, the Authority agrees as follows:

(a) The Authority will authorize the issuance of the Notes and Taxable Debt in the aggregate principal amount necessary and sufficient to finance a portion of the cost of acquiring, rehabilitating, equipping and developing the Project as the Authority and the Company shall agree in writing, but in all events, the principal amount of such Notes shall not exceed \$25,000,000 and the principal amount of such Taxable Debt shall not exceed \$3,000,000.

(b) The Authority will cooperate with the Company and purchaser(s) of the Notes and Taxable Debt and the Authority's Counsel with respect to the issuance and sale of the Notes and Taxable Debt and will take such further action and authorize the execution of such documents as shall be mutually satisfactory to the Authority and the Company for the authorization, issuance and sale of such Notes and Taxable Debt and the use of the proceeds thereof to finance the cost of acquiring, rehabilitating, equipping and developing the Project.

(c) Such actions and documents may permit the issuance from time to time in the future of additional notes or taxable debt on terms which shall be set forth therein, whether *pari passu* with the Notes and Taxable Debt, for the purpose of defraying the cost of completion, enlargements, improvements and expansion of the Project, or any segment thereof, or refunding of the Notes or Taxable Debt.

(d) The project loan or financing agreement(s) (the "Project Loan Agreement") among the Authority, the Company and the fiscal agent (or trustee) shall, under the terms agreed upon by the parties, provide for payments to be made by the Company in such sums as shall be necessary to pay the amounts required under the Act, including the principal of and interest and redemption premium, if any, on the Notes and Taxable Debt, as and when the same shall become due and payable.

(e) In authorizing the issuance of the Notes and Taxable Debt, the Authority will make no warranty, either expressed or implied, that the proceeds of the Notes and Taxable Debt will be sufficient to pay all costs of acquiring, rehabilitating, equipping and developing the Project, or that those facilities encompassed by the Project will be suitable for the Company's purposes or needs.

(f) The Notes and Taxable Debt shall specifically provide that they are payable solely from the revenues derived from the applicable Project Loan Agreement or other agreements approved by the Authority, except to the extent payable out of amounts attributable to Note or Taxable Debt proceeds. The Notes and Taxable Debt and the interest thereon shall not constitute an indebtedness or pledge of the general credit of the Authority, the City of Bradenton, Florida, Manatee County, or of the State of Florida, or any other potential subdivision

of the State of Florida and such fact shall be plainly stated on the face of the Notes and Taxable Debt.

(g) Due to the tax exempt volume cap limitations established by the State of Florida on the issuance of tax exempt obligations, the Authority reserves the right, in its sole and absolute discretion, to determine if, in what amount, and when to file a Request for Allocation for the Project with the State of Florida, Division of Bond Finance. Subject to the foregoing, at any time after receipt of this Memorandum of Agreement properly executed by the Company (but before the expiration date), the Authority may file with the State of Florida, Division of Bond Finance a Request for Allocation. Nothing contained herein shall be deemed to be a guarantee of the tax-exempt private activity allocation for the Company's Project.

(h) The Company has advised the Authority of the need to proceed timely to develop the Project. In that regard, assuming that the proposed financing of the Project and other matters are ultimately worked out and acceptable to the Authority, including a satisfactory third-party credit underwriting review, the Authority is desirous of assisting the Company in the financing of the Project. Accordingly, the Authority is entering into this Memorandum of Agreement so as to assist the Company in obtaining its financing for the Project. However, it is specifically understood and agreed by the Authority and the Company that the Authority, in its sole discretion, reserves the right not to issue the Notes and Taxable Debt if it does not ultimately approve the financing, including approval of the financing documents.

(i) Greenberg Traurig, P.A., Bond Counsel, has, upon review of the Company's application, determined that the Project is suitable for tax-exempt financing.

3. **UNDERTAKINGS ON THE PART OF THE COMPANY.** Subject to the terms hereof, the Company acknowledges and agrees as follows:

(a) Although the Authority has approved the proposed Project, it has reserved the right, in its sole and absolute discretion, to determine whether or not to proceed with the issuance of the Notes and Taxable Debt as set forth in Section 2(h) above. The Company acknowledges, understands and agrees that the Authority retains said right.

(b) Unless the volume cap received is turned into carry-forward, the Company has been advised that the State of Florida has adopted rules and regulations regarding the use of allocations and requires that an issuer issue its notes in substantially the entire amount of the allocation within one hundred and fifty-five (155) days from the date of the granting of an allocation, unless it is extended under certain circumstances.

(c) The Company will use reasonable efforts to ensure that the Notes and Taxable Debt in the aggregate principal amounts as stated above are timely sold; provided, however, that the terms of such Notes and Taxable Debt and of the sale and delivery thereof shall be mutually satisfactory to the Authority and the Company.

(d) Prior to the issuance of the Notes and Taxable Debt, in one or more series or issues from time to time as the Authority and the Company shall agree in writing, the Company will enter into the applicable Project Loan Agreement with the Authority, the terms of which shall be mutually agreeable to the Authority and Company, providing for the loan or use

of the proceeds of the Notes and Taxable Debt, as applicable, to finance a portion of the Project. Such agreement will provide that the Company will be obligated to pay the Authority (or pay to the fiscal agent or trustee for holders of the Notes and Taxable Debt on behalf of the Authority, as the case may be) sums sufficient in the aggregate to enable the Authority to pay the principal of and interest and redemption premium, if any, on the Notes and Taxable Debt, as and when the same shall become due and payable, and all other reasonable expenses related to the issuance and delivery of the Notes. The Company will agree in such documents that if the cost of acquisition and rehabilitation of the Project exceeds the amounts allocated therefor, it shall not be entitled to any reimbursement for any such excess either from the Authority, the Noteholders or the fiscal agent for the Noteholders.

(e) The Company shall be responsible for and timely pay the Commitment Fee required by the Authority Guidelines, the issuance fee in effect at the time the Notes and Taxable Debt are issued and the reasonable fees and costs of Counsel to the Issuer, the reasonable fees and costs of Bond Counsel to the Authority, the reasonable fees and expenses of the Authority's co-financial advisors, plus such other reasonable fees and costs as may be required.

(f) The Company shall, in addition to paying the amount set forth in the Project Loan Agreement, pay all costs of operation, maintenance, taxes, governmental and other charges that may be assessed or levied against or with respect to the Project.

(g) The Company will hold the Authority free and harmless from any loss or damage and from any taxes or other charges levied or assessed by reason of any mortgaging or other disposition of the Project.

(h) The Company will take such further action as may be required to implement its aforesaid undertakings and as it may deem appropriate in pursuance thereof.

(i) All fees and costs that the Company is required to pay, including but not limited to, the issuance fee, and counsel fees and costs not paid at the time of application shall be paid in full at the time of the sale and delivery of the Notes and Taxable Debt.

(j) The number of multi-family units to be rehabilitated by the Company will not decrease more than five (5%) percent from the number of multi-family units that it represented that it would rehabilitate in its Application to the Authority that resulted in the issuance of the Inducement Resolution and this Memorandum of Agreement.

(k) The closing of the sale of the Notes shall occur on or before one hundred and fifty days from the date of the granting of a tax exempt volume allocation, unless extended by the Authority at its sole and absolute discretion. In the event that the closing on the sale of the Notes does not occur on or before said time, and the Authority chooses not to extend the closing date, the Company shall have no further rights under this Memorandum of Agreement. Further, in such event, the Authority may apply for and use the tax exempt volume allocation, if available, for the funding of such other multifamily housing projects or single family housing as it deems best serves the interests of the residents of Manatee County, Florida. The closing of the Taxable Debt must occur during the same time period as the Notes.

(l) The ownership and control of the Company and its principals shall not vary more than five (5%) percent from what has been represented in the Company's Application to the Authority without the prior written consent of the Authority, excluding the admission of a tax-credit limited partner to the Company.

(m) The Company and its principals shall have fully and timely complied with the terms of the Authority Guidelines, including, but not limited to the timely payment of all fees and costs due to the Authority, its Counsel and its Bond Counsel.

(n) The Company and certain related parties or guarantors as determined by the Authority shall be required to enter into an environmental indemnity and certain other guaranties.

4. **GENERAL PROVISIONS.** All commitments of the Authority under Section 2 hereof and of the Company under Section 3 hereof are subject to the conditions that the following events shall have occurred not later than one hundred and fifty-five days from the date of receipt of a tax exempt volume allocation, or such other date as shall be mutually satisfactory to the Authority and Company:

(a) The Authority shall be lawfully entitled to issue the Notes and Taxable Debt as herein contemplated.

(b) The Authority and Company shall have agreed on mutually acceptable terms for the Notes and Taxable Debt and the sale and delivery thereof and mutually acceptable terms and conditions of any trust instrument in respect thereto and Project Loan Agreement(s) or other agreements incidental to the financing or referred to in Sections 2 and 3 hereof.

(c) Such other rulings, approvals, consents, certificates of compliance, opinions of counsel and other instruments and proceedings satisfactory to the Company and to the Authority as to such matters with respect to the Notes and Taxable Debt, the Project, the Project Loan Agreement, a funding loan agreement and any other instrument, as shall be specified by the Company or the Authority, shall have been obtained from such governmental, as well as non-governmental, agencies and entities as may have or assert competence or jurisdiction over or interest in matters pertinent thereto and shall be in full force and effect at the time of issuance of the Notes.

(d) The Company and the Authority each reserve the absolute right to unilaterally cancel this Memorandum of Agreement at any time prior to the time the Notes and Taxable Debt are issued by the Authority upon written notice of cancellation. The Guidelines will govern the treatment of fees already paid by the Company.

(e) If the events set forth in this Section 4 do not take place within the time set forth or any extension thereof, or if the Company exercises its right of cancellation as set forth in this Section 4, the Company agrees that it will reimburse the Authority for all the reasonable and necessary direct or indirect expenses which the Authority may incur at the Company's request arising from the execution of this Memorandum of Agreement, and the performance by the Authority of its obligations hereunder, including legal fees and expenses for counsel to the Authority, the reasonable fees and expenses of the Authority's co-financial advisors and Bond

Counsel. In addition, the Authority shall be entitled to keep all fees paid to it pursuant to the Authority Guidelines.

(f) The Company acknowledges that the Authority may, during the time this Memorandum of Agreement is in effect, issue similar “inducement” agreements to other companies for other multifamily housing projects, and/or may issue bonds or notes or participate jointly with other authorities to issue bonds for single family housing. This Memorandum of Agreement will create no priority or rights vis-a-vis subsequent agreements for the issuance of multifamily or single family housing bonds or other indebtedness.

(g) The Authority shall have obtained the consent of the Manatee County Board of County Commissioners as to the issuance of the Notes. Further, the Authority shall have obtained private activity allocation sufficient to allow the issuance of the Notes from the State of Florida, Division of Bond Finance.

5. **BINDING EFFECT.** All covenants and agreements herein contained by or on behalf of the Authority and the Company shall bind and inure to the benefit of the respective successors and assigns of the Authority and the Company whether so expressed or not.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunder duly authorized as of the _____ day of November, 2016.

**HOUSING FINANCE AUTHORITY OF
MANATEE COUNTY, FLORIDA**

By: _____
Name: _____
Title: _____

**BRADENTON LEASED HOUSING
ASSOCIATES III, LLLP**, a Minnesota
limited liability limited partnership

By: Bradenton Leased Housing Associates
III, LLC, a Minnesota limited liability
company

By: _____
Name: _____
Title: _____

EXHIBIT B
NEWSPAPER AFFIDAVIT

WPB 383891895v3/016751.015100

12703536v2
WPB 383891895v5/016751.015100