

RESOLUTION # _____

RESOLUTION AUTHORIZING EXECUTION OF A LOAN MODIFICATION, SUBORDINATION AGREEMENT AND
RELEASE DEED WITH EAGLE MARKET PLACE, LLC, BY MOUNTAIN HOUSING OPPORTUNITIES, INC.,
MEMBER/MANAGER

- WHEREAS, several years ago, Mountain Housing Opportunities approached the City of Asheville and Buncombe County Government regarding funding for the Eagle Market Place project; and the entity created to borrow for the project is Eagle Market Place, LLC ("Borrower");
- WHEREAS, the County, pursuant to a Community Development Loan Agreement dated December 10, 2013 ("Loan Agreement"), is the holder of a Promissory Note in the principal amount of Two Million Dollars (\$2,000,000.00) (" \$2MM Note") as same is secured by a Deed of Trust to Michael C. Frue, Trustee, recorded in Book 5170 at Page 647 Buncombe County Registry ("Deed of Trust") (the Loan Agreement, \$2MM Note and Deed of Trust collectively referred to as "Loan Documents") on all the real property described in said Deed of Trust;
- WHEREAS, this loan was approved for the Eagle Market Place project by the Board at its May 15, 2012 regular meeting;
- WHEREAS, another loan was made for the Eagle Market Place project dated January 22, 2013 whereby the County is the holder of a Promissory Note the amount of Three Hundred Thousand Dollars (\$300,000.00) ("300K Note") secured by a Deed of Trust on the same property to Michael C. Frue, Trustee, as same is recorded in Book 5062 at Page 222 Buncombe County Registry;
- WHEREAS, this second loan was approved for the Eagle Market Place project by the Board at its October 26, 2010 regular meeting;
- WHEREAS, structural design issues caused work on the project to be stopped in October 2014, and the developers and their partners and lenders requested that the County approve a restructuring of the Loan Agreement to allow workforce housing units in addition to affordable housing units;
- WHEREAS, this request was approved by the Board at its August 2, 2016 regular meeting and a Modification Agreement was entered into between the parties
- WHEREAS, as contemplated by the parties and as indicated in the Loan Agreement, the subject property has been divided into two (2) condominium units, to wit: Unit 100, which is restricted to office, retail and commercial uses, and Unit 200, which is restricted to residential use;
- WHEREAS, Borrower and County have agreed to allocate the amounts of the \$2MM Note secured by Unit 100 and Unit 200, respectively, so that Five Hundred Thousand Dollars (\$500,000.00) of the Note shall be secured by the Deed of Trust on Unit 100 only and One Million Five Hundred Thousand Dollars (\$1,500,000.00) of the Note shall be secured by

the Deed of Trust on Unit 200 only;

WHEREAS, such an arrangement in no way changes the rights and obligations of the parties to the Loan Documents, but does change the security for the loan from all real property on which the project is located to specific commercial and residential units;

WHEREAS, the attached Loan Modification Agreement and Subordination Agreement have been drafted to effect these purposes;

WHEREAS, the \$300K Note is also secured by the same real property and request has been made to release the County's lien on the commercial property of the project property;

WHEREAS, the attached Release Deed has been drafted to effect this request; and

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of the County to grant these requests of the Borrower and to execute the attached Loan Modification Agreement, Subordination Agreement and Release Deed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That by and with the approval of County Legal Services, the Chair, Vice-Chair and Interim County Manager, or any one of them, are hereby authorized to execute the attached Loan Modification Agreement, Subordination Agreement and Release Deed.
2. That all acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
3. That this resolution shall be effective upon its adoption.

This the ____ of July, 2018.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney