

RESOLUTION # _____

RESOLUTION AUTHORIZING EXECUTION OF PERMANENT FINANCING DOCUMENTS FOR THE
EAGLE MARKET PLACE PROJECT

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- WHEREAS, several years ago, Mountain Housing Opportunities ("MHO") approached the City of Asheville and Buncombe County Government regarding funding for the Eagle Market Place project;
- WHEREAS, the County, pursuant to a Community Development Loan Agreement dated December 10, 2013, is the holder of a Promissory Note in the principal amount of Two Million Dollars (\$2,000,000.00) 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") on all the real property described in said Deed of Trust;
- WHEREAS, this loan was originally approved for the Eagle Market Place project by the Board at its May 15, 2012 regular meeting;
- WHEREAS, upon completion of the project the property was divided into two (2) condominium units, to wit: Unit 100, which is restricted to office, retail and commercial uses now owned by EMP Commercial, LLC, and Unit 200, which is restricted to residential use and owned by Eagle Market Place, LLC;
- WHEREAS, the County previously agreed to allocate the \$2MM Note so that Five Hundred Thousand Dollars (\$500,000.00) of the Note will be secured by a lien on Unit 100 only and One Million Five Hundred Thousand Dollars (\$1,500,000.00) of the Note as a lien on Unit 200 only;
- 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 lien on the entire tract by 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, the Eagle Market Place project entities are entering into a loan agreement with Bellwether Enterprise Real Estate Capital, LLC ("Bellwether") and the Federal Home Loan Mortgage Corporation ("FHLMC") for permanent financing of the Unit 200 portion of the loan to replace the construction loan from TD Bank recorded in Book 5170 at Page 555, Buncombe County Registry;
- WHEREAS, contemporaneously, EMP Commercial will enter into a new note and new deed of trust with the County for repayment of the Five Hundred Thousand Dollars (\$500,000.00) allocated to Unit 100 and the city of Asheville and MHO will subordinate to this new

note and deed of trust such that the County maintains its lien position;

WHEREAS, such an arrangement in no way changes the rights and obligations of the parties to the loan documents, except that the maturity date of the Note on Unit 200 loan shall be extended for two (2) additional years to December 10, 2035;

WHEREAS, the attached Subordination Agreements for Bellwether and FHLMC and the attached Second Loan Modification Agreements for both the 300K Note and Unit 200 have been drafted to effect these purposes; 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 documents.

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

1. That the Chair, Vice-Chair and County Manager, or any one of them, are hereby authorized to execute the attached loan documents.
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 May, 2019.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney