

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
AFFORDABLE HOUSING FUND
PRE-DEVELOPMENT LOAN AGREEMENT**

THIS PRE-DEVELOPMENT LOAN AGREEMENT ("Agreement") is made and entered into this 30 day of August, 2017 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS Chapter 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507 (hereinafter referred to as "LFUCG") through its **OFFICE OF AFFORDABLE HOUSING**, and **WINTERWOOD, INC.**, a for-profit Kentucky corporation, whose principal address is 3245 Lochness Drive, Lexington, Kentucky 40517 (hereinafter referred to as "Borrower").

WITNESSETH:

WHEREAS, pursuant to Chapter 2, Article XXXXV, Section 2-482 of the Lexington-Fayette County Code of Ordinances (the "Code"), the Affordable Housing Fund ("the Fund") was created to preserve, produce and provide safe, quality and affordable housing; and

WHEREAS, pursuant to Chapter 2, Article XXXXV, Section 2-479 of the Code, the Affordable Housing Governing Board ("the Board") oversees and manages the administration of the Fund; and

WHEREAS, Borrower by application dated June 27, 2017 (the "Application"), attached hereto as Exhibit A, has applied for and has received approval by the Board for funds for a specific housing related project described below (the "Eligible Activity"); and

WHEREAS, in order to assist Borrower in the funding of the Eligible Activity, LFUCG is willing to make funds available to Borrower from the Fund under the terms and conditions of this Agreement; and

WHEREAS, on the 6th day of July, 2017, LFUCG issued to Borrower a Commitment Letter under LFUCG's Affordable Housing Fund Program (hereinafter referred to as the "Program") which was accepted by Borrower on July 6, 2017 ("Commitment Letter"), attached hereto as Exhibit B and the terms and conditions of which are incorporated herein; and

WHEREAS, the project for which Borrower has been approved includes pre-construction or pre-development activities.

NOW, THEREFORE, in consideration of the covenants set out herein, the parties agree as follows:

ARTICLE 1 - COMMITMENT

1.1 LFUCG'S COMMITMENT. Pursuant to the Application and this Agreement, LFUCG agrees to loan an amount not to exceed **TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$200,000.00)** to Borrower from the Fund. Funds will be disbursed by LFUCG to Borrower in accordance with the requirements set forth in this Agreement and conditioned upon Borrower's continued satisfactory performance under the terms of this Agreement. The Funds will be in the form of a repayable loan for the term of **twelve (12) months** from the date of this Agreement. The Loan shall be at two percent (2%) interest for the twelve-month period and shall be repaid in full at the end of the twelve (12) months or at the closing of the permanent financing loan, whichever occurs first, and is for the rehabilitation and/or renovation of 40 units located at 700 Whitney Woods Place, Lexington, Kentucky 40504, known as Whitney Woods Apartments. The funds will be expended only for the purpose of pre-construction and pre-development costs and expenses, described below in Section 1.3 – Eligible Activity and in conformity with the other provisions of this Agreement. Further, LFUCG will not be required to advance any amount under this Agreement if an Event of Default, as defined by Article 4, has occurred and is continuing.

1.2 MORTGAGE; OTHER SECURITY. The performance of the Borrower's obligations under this Agreement shall be secured by a personal guaranty signed by Fred Worsham and Carol Worsham and as evidenced by a signed Personal Guaranty ("the Guaranty"), attached hereto as Exhibit C.

1.3 ELIGIBLE ACTIVITY. The Funds have been made available based upon the information provided by Borrower in the Application. The sole purpose of this allocation of funds is and will be for pre-construction and/or pre-development expenses incurred during the acquisition and rehabilitation of the real property located at 700 Whitney Woods Place, Lexington, Kentucky 40504 (more particularly described in Exhibit D attached hereto and incorporated herein by reference) (the "Property") specified as follows:

- (a) Architect Design
- (b) Appraisal
- (c) Market Study and Rental Comp
- (d) Engineering
- (e) ALTA Survey
- (f) Phase Environmental
- (g) Impact Fees
- (h) Investor 3rd Party
- (i) Kentucky Housing Corporation Fees

1.4 SITES. In the event the Project includes new pre-construction activities and/or pre-development activities, Borrower must identify those activities. Once identified, the eligible activity may not be changed, removed or substituted without prior written approval of LFUCG's Office of Affordable Housing.

ARTICLE 2 - REPRESENTATIONS AND WARRANTIES OF BORROWER

2.1 Borrower represents and warrants that:

(a) The Property will be free and clear of all encumbrances, except easements, restrictions, stipulations and rights-of-way of record, applicable zoning rules and regulations and taxes which may be due and payable or which have been assessed and become a lien against the property whether or not yet due and payable;

(b) All funds disbursed hereunder will be used only for acquisition and/or pre-development expenses, as applicable, of the Property, as approved by LFUCG, and said funds will not be used in any other manner or for any other purpose; and

(c) The acquisition and/or construction work has been approved by the appropriate local, regional and state agencies, including those concerned with planning and zoning, public works and health.

2.2 Borrower understands and acknowledges that projects assisted with LFUCG Affordable Housing Funds must, at a minimum, meet the requirements set out in this Agreement. Borrower will supply, at LFUCG's request, all necessary documentation to substantiate compliance with this paragraph.

2.3 Borrower represents and warrants that, at the time any advances are made by LFUCG as provided herein, the Property will contain no substance known to be hazardous such as hazardous waste, lead-based paint (in violation of Federal or State law), asbestos, methane gas, urea formaldehyde, insulation, oil, toxic substances, polychlorinated biphenyls (PCBs) or radon, and Borrower shall take all action necessary to insure that the Property contains no such substances. Further, the Property will not be affected by the presence of oil, toxic substances or other pollutants that could be a detriment to the Property, nor is Borrower or the Property in violation of any local, state or federal environmental law or regulation and no violation of the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Toxic Substance Control Act, Safe Drinking Water Control Act, Comprehensive Environmental Resource Compensation and Liability Act or Occupational Safety and Health Act has occurred or is continuing. Borrower will take all actions within its control necessary to insure that no such violation occurs. Borrower will immediately deliver to LFUCG any notice it may receive about the existence of any of the foregoing hazardous conditions on the Property or about a violation of any such local, state or federal law or regulation with respect to the Property.

2.4 Borrower is duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky; has the power and authority, corporate or otherwise, to own its properties and carry on its business as being conducted; and is duly qualified to do business wherever qualification is required. Borrower has been organized pursuant to state law for the primary purpose of providing housing to persons and families of lower and moderate income. Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any federal or state authority which would have the effect of preventing or hindering the performance of its duties under this Agreement, nor are there any proceedings presently

in progress or to its knowledge contemplated which would, if successful, lead to the issuance of any cease or desist order.

2.5 There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting it or the Project or any other matters which would substantially impair the ability of Borrower to pay when due any amounts which may become payable in respect to the Note, and to the Borrower's knowledge, it is not in default with respect to any order, writ, judgment, injunction, decree or demand of any court of any governmental authority.

2.6 The consummation of the transaction contemplated hereby and the performance of this Agreement and any Mortgage, if so required, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, bank loan or other loan, credit agreement, corporate charter, bylaw or any other instrument to which the Borrower is a party or by which it may be bound or affected.

ARTICLE 3 – REQUIREMENTS FOR DISBURSEMENT

3.1 DISBURSEMENT OF FUNDS. Funds will be disbursed to Borrower upon receipt by LFUCG of the following:

- (a) An executed original of the Authorized Signature form; and
- (b) Evidence that the Project will remain affordable as provided below; and
- (c) Proof of costs and expenses incurred in adherence to LFUCG's requirements for draws and inspections for the Program activity under this Agreement (expense reimbursement); and
- (d) Execution of the Personal Guaranty by Fred Worsham and Carol Worsham and execution of any and all other Security Documents which may be required by LFUCG.

LFUCG will not be required to advance any amount hereunder if an Event of Default (hereinafter defined) has occurred and is continuing.

3.2 AFFORDABILITY PERIOD. Property assisted with LFUCG Affordable Housing Funds must be restricted to remain affordable to households at or below eighty percent (80%) of the area median income pursuant to the guidelines of the United States Department of Housing and Urban Development (HUD), upon completion of all rehabilitation work. The affordability period shall be a minimum of fifteen (15) years from date LFUCG Affordable Housing Funds are first expended on each unit in the Project. Affordability shall be ensured by recorded deed restrictions.

3.3 SECTION 8 RENTAL ASSISTANCE. If LFUCG Affordable Housing Funds are used for pre-construction and/or pre-development of rental property, Borrower will not refuse to lease any Unit assisted with Affordable Housing Funds to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of

1937, as amended, solely because of the status of the prospective tenant as a holder of a certificate or voucher. Provided, however, if the rent required for the Unit is based upon a percentage of the prospective tenant's income through project design, or the assisted housing unit(s) utilize project-based rental housing assistance through another source, this section will not apply. This section does not apply to homeowner-occupied units of housing assisted with LFUCG Affordable Housing Funds.

3.4 INSURANCE. For all properties assisted with LFUCG Affordable Housing Funds, the Borrower or Property Owner must maintain all risk, fire and extended coverage, in form and with companies acceptable to LFUCG, for each Unit of the Project and any improvements to be rehabilitated and constructed thereon in an amount of not less than the LFUCG Affordable Housing Funds made available to Borrower for each Unit of the Project. Each policy must include appropriate loss payable clauses in favor of LFUCG or Borrower, as applicable, as beneficiary and without right of cancellation or change except upon thirty (30) days' written notice to LFUCG. Borrower will deliver proof of all insurance to LFUCG upon request.

3.5 CLOSING COSTS. Regardless of whether or not LFUCG Affordable Housing Funds are disbursed under this Agreement, all costs associated with funding under this Agreement will be borne by the Borrower, including but not limited to the cost of attorneys' fees, documentation, recording fees, and costs associated with disbursement.

3.6 LEGAL MATTERS. All legal matters incident to the contemplated transaction will be concluded to the satisfaction of LFUCG's Department of Law.

3.7 PROOF OF CORPORATE ACTION. Prior to execution of this Agreement, LFUCG shall have received (i) copies of Borrower's organizational documents; (ii) confirmation from the Secretary of State of Borrower's organizational jurisdiction that Borrower is a validly existing entity in good standing, and (iii) a resolution from the Borrower's Board of Directors, member, manager or general partner, as appropriate, authorizing the execution of the legal documents evidencing the funding received under this Agreement. If Borrower is a foreign entity, it shall, in addition to jurisdictional organizational documents provide evidence of its authority to conduct business in the Commonwealth of Kentucky.

ARTICLE 4 – BREACH OR DEFAULT

4.1 RECAPTURE OF FUNDS; BREACH OF AGREEMENT. In the event of a breach, LFUCG may suspend Borrower's authority to draw LFUCG Affordable Housing Funds at any time by giving notice to Borrower. LFUCG has the right, in its sole discretion, to terminate disbursement of funds and/or recapture any remaining portion of LFUCG Affordable Housing Funds and/or require repayment of LFUCG Affordable Housing Funds already disbursed upon the occurrence of one or more of the following events ("Breach"):

- (a) Borrower does not diligently pursue the activity detailed in Borrower's

Application and for which LFUCG Affordable Housing Funds have been awarded;

(b) Borrower violates of any of the terms of this Agreement, the LFUCG Affordable Housing Governing Board guidelines and policies, the Note evidencing the Affordable Housing Funds under this Agreement or any other Security Document entered into pursuant to this Agreement;

(c) Borrower does not submit reports or submits inadequate reports pursuant to Article 5 below;

(d) Borrower defaults under any of the terms of this Agreement or any other document executed in conjunction with funding under this Agreement, and such default is not cured within any applicable cure period;

(e) The information submitted to LFUCG by Borrower, upon which LFUCG relied in its decision to allocate funds to Borrower, proves to be untrue or incorrect in any material respect; or

(f) LFUCG determines in its sole discretion that it would be inadvisable to disburse LFUCG Affordable Housing Funds to Borrower because of a material and adverse change in Borrower's condition.

4.2 EVENTS OF DEFAULT. Occurrence of one or more of the following events will, in the sole discretion of LFUCG, constitute an event of default:

(a) Any installment of principal or interest required by the Promissory Note remains unpaid for more than ten (10) days after the due date thereof;

(b) Any representation or warranty made herein, or in any certificate, report or statement furnished to LFUCG in connection the LFUCG Affordable Housing Funds or the Note proves to have been untrue or misleading in any material respect when made;

(c) Failure of Borrower to perform any of the provisions of the Note, this Agreement or any other document executed in connection with this Agreement;

(d) Borrowers violation of the affordability requirements, whether evidenced by recorded Deed Restriction or owner certification of continued compliance;

(e) Borrower discontinues the pre-construction and/or pre-development activities and this discontinuance of activities continues for a period of ten (60) days;

(f) Borrower permits cancellation or termination of any insurance policy required under this Agreement or fails, if required, to obtain any renewal or replacement thereof satisfactory to LFUCG;

(g) Borrower

- i. becomes bankrupt, or ceases, becomes unable, or admits in writing its inability to pay its debts as they mature, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, creditors;

- ii. applies for, or consents (by admission of material allegations of a petition or otherwise) to the appointment of a trustee, receiver or liquidator of the Borrower or of a substantial portion of its assets, or authorizes such application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against it and continue un-dismissed and unstayed for a period of fifteen (15) days;
 - iii. authorizes or files a voluntary petition in bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction; or authorizes such application or consent; or proceedings to such end are instituted against the Borrower without such authorization, application or consent and are approved as properly instituted, remain undismissed for fifteen (15) days, or result in adjudication of bankruptcy or insolvency; or
- (h) Borrower is found to have violated any law or regulation, whether federal or state.

4.3 CURE OF BREACH OR DEFAULT; PENALTIES. If any breach or default is not cured within thirty (30) days from the date LFUCG notifies Borrower of the breach or default, LFUCG may continue suspension of disbursements. Additionally, LFUCG may declare the loan and/or grant immediately due and payable and may institute proceedings for its collection. LFUCG may terminate this Agreement by giving written notice to Borrower. In the event of a termination, Borrower's authority to draw LFUCG Affordable Housing Funds will terminate as of the date of the notice of termination and Borrower will have no right, title or interest in or to any remaining LFUCG Affordable Housing Funds.

4.4 MISAPPROPRIATION OF FUNDS. Borrower will be liable for any and all misappropriation of LFUCG Affordable Housing Funds, audit exceptions by state or federal agencies, and violations of the terms of this Agreement. LFUCG also has the right to require Borrower to repay to LFUCG a portion of or all LFUCG Affordable Housing Funds drawn by Borrower in cases of breach involving misappropriation of funds or fraudulent uses of funds.

4.5 RIGHTS UPON DEFAULT. If one or more of the events of default described above occur, LFUCG may declare Borrower to be in default under this Agreement by giving not less than then (10) days prior written notice (or other notice required by applicable default provisions in other LFUCG loan documents) to Borrower, except for a default in payment, in which case no notice is required, and thereafter, LFUCG may exercise any one or more of the following remedies:

- (a) Terminate the credit hereby extended, declare the entire unpaid balance and all accrued but unpaid interest under the Note due and payable and institute proceedings for collection thereof. Provided, however, LFUCG may make advances under the occurrence of an event of default

- without waiving any of its rights hereunder;
- (b) Exercise its rights under the Note or any other Security Document;
 - (c) Enter upon the Project site(s), expel and eject Borrower and all persons claiming through or under Borrower and collect the rents and profits therefrom;
 - (d) Complete the Project site development work at the cost and expense of Borrower and add such cost to the debt evidenced by the loan and/or grant and this Agreement and secured by the Security Documents;
 - (e) Have discharged of record any mechanic's and materialmen's lien or other lien against the Project site(s);
 - (f) Institute such legal proceedings or other proceedings in the name of Borrower or LFUCG as LFUCG may deem appropriate for the purpose of protecting the Project site(s) and LFUCG's interests therein;
 - (g) Do and perform all acts and deeds in the name of Borrower or LFUCG as LFUCG deems necessary or desirable to protect the Project site(s) and LFUCG's interests therein.
 - (h) All of the rights and remedies of LFUCG under this Agreement shall be cumulative and to the fullest extent permitted by law and shall be in addition to all those rights and remedies afforded LFUCG at law or in equity or in bankruptcy.

4.6 PAYMENTS DUE TO DEFAULT. Borrower shall reimburse and fully compensate LFUCG upon demand for all loss, damage and expense, including without limitation reasonable attorney's fees and court costs, together with interest on the amount thereof from the date the same accrues at the rate of twelve percent (12%) per annum, incurred by LFUCG, (a) by reason of any default or defaults hereunder or under this Agreement, the Note, or the Security Documents or any other loan document executed by Borrower, (b) by reason of the neglect by Borrower of any duty or undertaking hereunder or under the Security Documents and (c) in the exercise of any right or remedy hereunder or under the Security Documents.

ARTICLE 5 – RECORDS; REPORTING

5.1 RECORDS; ACCESS. Borrower agrees to keep adequate records pertaining to the Project and the uses of LFUCG Affordable Housing Funds. Borrower agrees to provide LFUCG or its designee access to all of its books and records, including fiscal records, for the purpose of program assessment reviews, and to retain all books and records until the later of three (3) years from the termination of this Agreement, or until all audits of performance during the term of this Agreement have been completed, or until any pending litigation involving this loan or related books and records is settled. Borrower agrees to maintain its books and records in accordance with generally accepted accounting principles. Nothing in this Agreement will be construed to limit the ability of LFUCG to monitor implementation of the project funded by this Agreement.

5.2 REPORTING REQUIREMENTS. Borrower agrees that all program and financial reports must be submitted as requested by LFUCG, on the forms provided by

LFUCG, on annual basis. Beginning the first calendar quarter after Recipient receives a disbursement of LFUCG Affordable Housing Funds and every year thereafter.

5.3 ANNUAL FINANCIAL REPORTING. Borrower agrees to provide LFUCG or its designee audited financials and/or Financial Compilation Reports on an annual basis during the term of this Agreement.

5.4 WARRANTY AS TO INFORMATION. Borrower acknowledges that its award of LFUCG Affordable Housing Funds has been based upon information received from Borrower. Borrower warrants that the financial and other information furnished by Borrower to LFUCG was, at the time of application, and continues to be, true and accurate.

5.5 PROGRAM COMPLIANCE. Borrower agrees to comply with LFUCG Affordable Housing Fund program guidelines, policies and criteria.

ARTICLE 6 - MISCELLANEOUS

6.1 NONLIABILITY OF LFUCG. This Agreement will not be construed to make LFUCG liable to materialmen, contractors, craftsmen, laborers or others for goods and services delivered by them to or upon the Property or for debts or claims accruing to said parties against the Borrower. There are no contractual relationships, either express or implied, between LFUCG and any materialman, contractors, craftsmen, laborers or any other persons supplying work, labor or materials on the job, nor will any third person or persons, individual or corporate, be deemed to be beneficiaries of this Agreement or any term, condition or provisions hereof or on account of any actions taken or omitted by LFUCG pursuant hereto.

6.2 NOTICES. Any notice required or permitted to be given pursuant to this Agreement will be deemed to have been duly given when properly addressed and hand-delivered, or mailed by registered or certified mail with postage prepaid, to Borrower or LFUCG, as the case may be, at the following addresses or to such other place as any of the parties may for themselves designate in writing from time to time for the purpose of receiving notices pursuant hereto:

Borrower: Winterwood, Inc.
3245 Lochness Drive
Lexington, Kentucky 40517
ATTN: Lisa Von Halle

LFUCG: Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
ATTN: Richard McQuady, Affordable Housing Manager

6.3 COSTS TO BE PAID BY BORROWER. All items which Borrower agrees to

furnish under this Agreement will be furnished at Borrower's sole cost and expense.

6.4 NON-DISCRIMINATION AND FAIR HOUSING RULES. The Project and all contractors and major subcontractors engaged in connection therewith shall comply with all fair housing and non-discrimination statutes and regulations as they are amended from time to time, which include but are not limited to the following, each of which is hereby incorporated by reference into this Agreement:

Fair Housing Act (Title VIII of the Civil Rights Act of 1968);
24 CFR § 5.105, which prohibits discrimination on the basis of actual or perceived sexual orientation or gender identity, and marital status
Title VI of the Civil Rights Act of 1964;
Section 504 of the Rehabilitation Act of 1973;
Section 109 of Title I of the Housing and Community Development Act of 1974;
Title II of the Americans with Disabilities Act of 1990;
Architectural Barriers Act of 1968;
Age Discrimination Act of 1975;
Title IX of the Education Amendments Act of 1972; and
Presidential Executive Orders 11063, 11246, 12892, 12898, 13166, 13217.
Nondiscrimination and Equal Opportunity requirements [24 CFR §5.105(a)]
Chapter 2, Article 2, §§2-26 – 2-46 of the Lexington-Fayette County, Code of Ordinances

6.5 SUSPENSION AND DEBARMENT. Borrower certifies by submission of its application and execution of this Agreement that to the best of its knowledge and belief after reasonable investigation, that it and/or its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any transaction under this Agreement by any federal or state department or agency, or under LFUCG's Suspension and Debarment Policy. Borrower further agrees that any future principal will meet the requirements of this section.

6.6 INDEMNIFICATION. Borrower shall indemnify, defend and hold LFUCG harmless from and against any and all liabilities, claims, demands, losses, damages, costs and expenses (including without limitation, reasonable attorney's fees and litigation expenses), actions or causes of actions, arising out of or relating to any breach of any covenant or agreement or the incorrectness or inaccuracy of any representation and warranty of Borrower contained in this Agreement or in any document delivered to LFUCG or by Borrower, or any other person on behalf of Borrower pursuant to the terms of this Agreement, except for that which occurs as a result of LFUCG's gross negligence or willful misconduct.

6.7 GOVERNING LAW. This Agreement and the loan referred to herein will be governed by the laws of the Commonwealth of Kentucky.

6.8 ASSIGNABILITY. Borrower may not assign this Agreement or any part hereof without the prior written consent of LFUCG. Subject to the foregoing restriction, this Agreement will inure to the benefit of LFUCG, its successors and assigns and will bind Borrower, Borrower's successors, assigns and representatives.

6.9 MODIFICATION. No variance or modification of this Agreement will be valid and enforceable except by supplemental agreement in writing, executed and approved in the same manner as this Agreement.

6.10 EXHIBITS. Any exhibits attached to this Agreement and the matters contained therein are incorporated herein and deemed to be a part hereof as if fully recited in this Agreement prior to the date of execution hereof.

6.11 WAIVER. LFUCG may waive Borrower's performance of any of the terms of this Agreement or Borrower's default hereunder; provided, however, such waiver must be in writing, signed by LFUCG, and any such written waiver hereunder will not be construed as a waiver of any other term or condition of this Agreement or of any act of continuing default.

6.12 INVALID PROVISIONS. The invalidity or unenforceability of a particular provision of this Agreement will not affect the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted.

[INTENTIONALLY LEFT BLANK – SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement is executed as of the day first written above.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

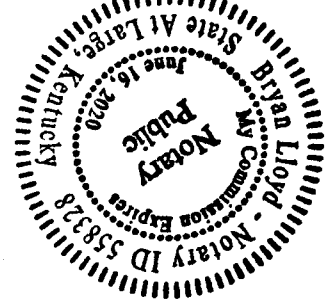
By: [Signature]
Jim Gray, Mayor

ATTEST:
[Signature]
Clerk, Urban County Council

WINTERWOOD, INC.
By: [Signature]
Lisa Von Halle, Chief Financial Officer

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

Subscribed, sworn to and acknowledged before me this 28th day of August 2017, by Lisa Von Halle, as Chief Financial Officer of and on behalf of Winterwood, Inc.



My commission expires: 06/16/2020
[Signature]
Notary Public

INDUCEMENT AGREEMENT

THIS INDUCEMENT AGREEMENT is entered into this 25th day of May, 2017, by and between the **KENTUCKY HOUSING CORPORATION** (the "Corporation") and **SMART PROPERTY, LLC**, a Kentucky limited liability company (the "Sole Member").

RECITALS:

WHEREAS, the Corporation is authorized pursuant to Chapter 198A of the Kentucky Revised Statutes, as amended (the "Act"), to issue its revenue bonds and take other actions to provide financing for residential housing;

WHEREAS, the Sole Member will have an equity position and direct or indirect control of one or more to-be-formed limited liability companies or limited partnerships (the "Owners"), which Owners will each own a residential rental facility identified in *Exhibit A*;

WHEREAS, the Sole Member intends to cause the Owners to use bond proceeds to finance a portion of the cost of the acquisition, rehabilitation and equipping of the residential rental facilities described in *Exhibit A* (the "Development"). The Sole Member, on behalf of the Owners, has requested that the Corporation issue tax-exempt bonds in one or more series in an aggregate principal amount not to exceed \$9,300,000 (the "Bonds") in order to assist the Owners in defraying the costs of the Development;

WHEREAS, the Corporation has available to it sufficient private activity bond volume cap pursuant to Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), for the issuance of the Bonds in an amount not to exceed \$9,300,000 (inclusive of premium and exclusive of discount relating to the original issuance of the tax-exempt Bonds);

WHEREAS, the Bonds shall be special obligations of the Corporation payable solely out of a pledge of the revenues and receipts of the Development and may take the form of a note or other evidence of indebtedness. No holder of any such Bonds shall have the right to compel any exercise of the taxing power of the Commonwealth of Kentucky (the "Commonwealth") or any political subdivision thereof and such Bonds shall not constitute a debt, liability or obligation of the Corporation, the Commonwealth, or any political subdivision thereof. The Corporation has no taxing power; and

WHEREAS, the Corporation finds that the financing as herein described will further the purposes of the Act. Subject to (i) due compliance with all requirements of law and this Agreement, (ii) receipt of satisfactory financial information concerning the Development and debt service relating to the Development and the Bonds, (iii) agreement by the Corporation and the Owners upon mutually acceptable terms for the Bonds and upon mutually acceptable forms of all contracts, agreements and proceedings related to the Bonds; and (iv) receipt of adequate assurance from the Owners that there are one or more purchasers for the Bonds, the Corporation will issue and sell its Bonds in one or more series in an aggregate principal amount not to exceed \$9,300,000. The exact amount of the Bonds shall be fixed by a duly adopted resolution of the Corporation at a later date and agreed to by the Owners, but in no event shall such amount exceed the lesser of the amount specified herein or the cost of the Development, including expenses incidental thereto, as estimated at the time of issuance of the Bonds; provided, however, that the issuance of such Bonds

shall not require the utilization of private activity volume cap pursuant to Section 146 of the Code in excess of \$9,300,000 (inclusive of premium and exclusive of discount relating to the original issuance of the tax-exempt Bonds).

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Undertakings on the Part of the Corporation.** Subject to the conditions herein stated, the Corporation agrees as follows:

(a) The Corporation has determined that the Development is consistent with the policy and purpose of the Kentucky General Assembly as stated within Section 198A.020 of the Kentucky Revised Statutes and, subject to the satisfaction of the requirements hereof, the Corporation intends to authorize the issuance and sale of the Bonds pursuant to its lawful and constitutional authority; and

(b) The Corporation's obligation to issue Bonds shall be subject to and expressly contingent upon (i) the Corporation's approval in all respects of the final terms, conditions and documentation of the financing documents and to the continuing validity of all representations made to the Corporation by the Owners in connection with the Development and (ii) compliance by the Owners with the Corporation's policies and procedures satisfactory in all respects to the Corporation.

2. **Undertakings on the Part of the Owners.** Subject to the conditions above stated, the Sole Member agrees and shall cause the Owners to agree as follows:

(a) The Development shall consist of three residential rental facilities scattered throughout the Commonwealth, initially expected to contain 148 units and other facilities incidental thereto, acquired, rehabilitated or equipped with proceeds of the Bonds or as a result of issuance of the Bonds;

(b) The Owners either have entered into or will enter into a contract or contracts for the acquisition, rehabilitation and equipping of the Development;

(c) The Owners will use all reasonable efforts to find one or more purchasers for the Bonds;

(d) The aggregate principal amount of the Bonds will not exceed \$9,300,000 and the issuance of such Bonds shall not require the utilization of private activity volume cap pursuant to Section 146 of the Code in excess of \$9,300,000 (inclusive of premium and exclusive of discount relating to the original issuance of the tax-exempt Bonds);

(e) Contemporaneously with the delivery of the Bonds, the Owners will enter into financing documents and instruments with the Corporation pursuant to which the Owners shall obligate themselves to pay to, or on behalf of, the Corporation such sums as shall be sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on the Bonds as and when the same shall become due and payable. The principal of and interest and redemption premium, if any, on the Bonds shall be secured by

the Owners by a pledge to a trustee acting under an indenture of trust for the benefit of the holders and owners of the Bonds, or by a pledge directly to the holders and owners of the Bonds, of income and revenues derived by the Corporation from the Development pursuant to the aforesaid financing documents and may be further secured by a security interest in the Development;

(f) The Owners recognize that additional agreements and instruments to provide additional security for the purchasers and owners of the Bonds, including a mortgage on the Development or other security devices or credit enhancements, may be necessary or desirable in order to market the Bonds successfully, and that the Owners shall execute, or cause to be executed, such instruments, guaranties and agreements as appropriate and necessary;

(g) The Owners will take such action or actions, including entering into documents or agreements, as required by Dinsmore & Shohl LLP, Bond Counsel or tax counsel acceptable to the Corporation to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of Treasury of the Internal Revenue Service from time to time pertaining to or affecting the Development or the Bonds in order to preserve the exemption from federal income taxation of the interest on the Bonds;

(h) The Owners will not knowingly take or permit any action that would adversely affect the exemption from federal income taxation of the interest on the Bonds, and if it should take or permit any such action, it shall take all lawful action that it can take to rescind such action promptly upon having knowledge thereof;

(i) The Owners shall take such further action and adopt such further proceedings as may be necessary to implement its undertakings required pursuant to this Agreement or as it may deem appropriate in pursuance of those undertakings; and

(j) The Owners understand that covenants similar to those set forth above will be incorporated into the financing documents and closing certificates and shall be binding upon any owner of the Development until such time as they expire, under their own terms, or the Trustee consents to the release of such restrictions. In addition, the Owners understand that the Corporation will require that the financing documents and closing certificates set forth additional rights of the Corporation, including, but not limited to, the right of the Corporation to (1) access the Development, or any of the Owners' books and records relating to the Development, including any loans involved in financing the rehabilitation or acquisition of the Development, (2) receive periodic reports relating to the operation of the Development from Trustee (or from the Owners to the extent such reports are not available to the Trustee) and (3) enforce compliance by the Owners with the requirements of this Agreement, any financing document and the closing certificates.

3. Indemnification and Fees. The Sole Member agrees and shall cause the Owners to agree as follows:

(a) The Owners shall indemnify and hold harmless, the Corporation, its officers, members and counsel from and against any and all claims of or on behalf of any person arising from any cause whatsoever in connection with the Development, the financing thereof or this Agreement, except with respect to existing contracts between the Owners and the Corporation to the extent such contracts do not provide for such indemnification;

(b) The Owners agree to pay all legal and other consulting and administrative fees, costs and expenses in connection with the issuance of the Bonds and the costs of the Development, including without limitation title charges, group taxes, administrative fees, costs and expenses of the Corporation, fees, costs and expenses of counsel to the Corporation and of bond counsel, recording fees, publication fees and fees, costs and expenses of financial consultants or underwriters and architects and engineers; and

(c) If the events set forth in Paragraph 4(a) of this Agreement do not take place within the time set forth therein or any extension thereof and the Bonds in an amount not to exceed the amount set forth in this Agreement are not issued within such time, the Owners (i) acknowledge that fees, costs and expenses shall have been incurred or accrued by reason of the execution and performance of this Agreement and (ii) agree that the Owners shall pay to the Corporation, immediately upon presentation of a written demand or demands therefor, all legal and other consulting and administrative fees, costs and expenses incurred or accrued in connection with the negotiation, preparation, consideration and review of this Agreement, the execution of this Agreement and the performance by the Corporation of its obligations under this Agreement and all fees, costs and expenses that the Corporation may incur at the Owners' request or as a result of or arising out of this Agreement, including without limitation all fees, costs and expenses of counsel to the Corporation, and this Agreement shall thereupon terminate.

4. General Provisions.

(a) All commitments of the Corporation under Paragraph 1 of this Agreement and of the Owners under Paragraph 2 of this Agreement are subject to the condition that on or before June 30, 2018 (subject to extension at the sole and absolute discretion of the Executive Director of the Corporation), the Corporation and the Owners shall have agreed to mutually acceptable terms and conditions of the financing documents and of the Bonds and of any other agreements, instruments and proceedings relating to the Development or the Bonds.

(b) The decision not to approve or agree to any term or condition of any document or not to take any action prior to issuance of the Bonds shall rest solely in the complete discretion of the parties to this Agreement.

(c) Except as otherwise provided in Paragraph 3 of this Agreement, in the event that the Bonds are not issued, sold, or delivered as contemplated herein, there shall be no liability on the part of the Corporation or the Owners or on the part of any of their respective elected or appointed officers, agents, members, servants, partners, principals, attorneys, or employees for any such non-issuance, non-acquisition, or non-delivery. The action of the

Corporation in executing and delivering this Agreement, in fulfilling its obligations under this Agreement, in issuing or in refusing to issue the Bonds on behalf of the Owners, or in taking or omitting or refusing to take any other action whatsoever, shall not result in any pecuniary liability on the part of the Corporation, its elected and appointed officers, agents, servants, attorneys, or employees;

(d) All rights of the Owners hereunder may inure to, and all obligations of the Owners hereunder may be fulfilled by, an affiliate of the Owners, provided, however that in no event shall the Owners be relieved of their obligations to the Corporation hereunder;

(e) This Agreement may be executed in multiple counterparts that, when taken as a whole, shall constitute one and the same Agreement. This Agreement may also be executed in multiple identical counterparts and all of said counterparts shall, individually and taken together, constitute one and the same Agreement.

5. **Expiration.** This Agreement shall expire upon the earliest to occur of the following: (a) the issuance of the Bonds or (b) June 30, 2018 (subject to extension at the sole and absolute discretion of the Corporation).

[Remainder of the Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Inducement Agreement by causing their duly authorized officers to affix their signatures hereto as of the date set forth above.

KENTUCKY HOUSING CORPORATION

By: 
Kathryn Peters
Executive Director

SMART PROPERTY, LLC, a Kentucky limited liability company

By: 

MAYOR JIM GRAY



LEXINGTON

RICHARD MCQUADY
DIRECTOR
AFFORDABLE HOUSING

July 6, 2017

Ms. Lisa Von Halle, Chief Financial Officer
Winterwood, Inc.
3245 Loch Ness Drive
Lexington, KY. 40517

Dear Ms. Von Halle,

This letter serves as a commitment of \$200,000 in funding from the Affordable Housing Fund of Lexington-Fayette Urban County Government (LFUCG) for a pre-development loan for the rehabilitation of Whitney Woods Apartments. The interest rate on the \$200,000 loan will be 2% and principal and interest will be due at closing of the permanent financing sources or one year from the closing of this loan, whichever occurs first.

This commitment is contingent upon the following:

1. A personal guarantee on the loan from Fred and Carol Worsham.
2. After completion of the rehabilitation, the units will be leased to households whose income is at or below 80% of area median income.
3. Acceptance of a 15 year deed restriction on the property that will ensure the rental units remain in compliance with Affordable Housing Fund guidelines.

Please indicate your acceptance of this contingent commitment and upon acceptance LFUCG will work to close the transaction.

Sincerely,

Richard L. McQuady
Affordable Housing Manager

Accepted by:

Lisa Von Halle



GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT ("Guaranty") is made this 25 day of August, 2017 by the undersigned, **FRED AND CAROL WORSHAM** (hereinafter, collectively and jointly, referred to as "Guarantors" and individually as a "Guarantor") for the benefit of **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS Chapter 67A , whose principal address is 200 East Main Street, Lexington, Kentucky 40507 (hereinafter referred to as "LFUCG") on behalf of its **OFFICE OF AFFORDABLE HOUSING**.

RECITALS

WHEREAS, Winterwood, Inc., whose principal address is 3245 Lochness Drive, Lexington, Kentucky 40517 (the "Borrower") has requested LFUCG make a loan to the Borrower in the amount of **TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$200,000.00)** (the "Loan").

WHEREAS, LFUCG and Winterwood, Inc. have entered into a Pre-Development Loan Agreement (the "Agreement"), for the provision of the Loan from the Affordable Housing Fund.

WHEREAS, the Guarantors, as General Partners with the Borrower of Winterwood, Inc., has an economic interest in Borrower or will otherwise obtain a material financial benefit from the Loan.

WHEREAS, as a condition to making the Loan to Borrower, LFUCG requires that the Guarantors execute this Guaranty.

NOW, THEREFORE, in order to induce LFUCG to make the Loan to Borrower, and in consideration thereof, the Guarantors agree as follows:

1. The Guarantors hereby absolutely, unconditionally and irrevocably guarantees to LFUCG the full and prompt payment when due, whether at maturity or earlier, by reason of acceleration or otherwise, and at all times thereafter, of all amounts for which Borrower is personally liable under Paragraph 1.1 of the Agreement.

2. The obligations of Guarantors under this Guaranty shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Security Instrument.

3. The Guarantor's obligations under this Guaranty constitute an unconditional guaranty of payment and not merely a guaranty of collection.

4. The obligations of Guarantors under this Guaranty shall be performed without demand by LFUCG and shall be unconditional irrespective of the genuineness, validity, regularity or enforceability of the Note, the Security Instrument, or any other Loan Document, and without regard to any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Guarantors hereby waive the benefit of all principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Guaranty and agrees that the Guarantor's obligations shall not be affected by any circumstances, whether or not referred to in this Guaranty, which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. The Guarantors hereby waive the benefits of any right of discharge under any and all statutes or other laws relating to guarantors or sureties and any other rights of sureties and guarantors thereunder. Without limiting the generality of the foregoing, The Guarantors hereby waive, to the fullest extent permitted by law, diligence in collecting the Indebtedness, presentment, demand for payment, protest, all notices with respect to the Note and this Guaranty which may be required by statute, rule of law or otherwise to preserve LFUCG's rights against the Guarantor under this Guaranty, including notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest, and notice of the incurring by Borrower of any obligation or indebtedness. The Guarantors also waive, to the fullest extent permitted by law, all rights to require LFUCG to (a) proceed against Borrower or any other guarantor of Borrower's payment or performance with respect to the Indebtedness (an "Other Guarantor"), (b) if Borrower or any guarantor is a partnership,

proceed against any general partner of Borrower or the guarantor, (c) proceed against or exhaust any collateral held by LFUCG to secure the repayment of the Indebtedness, or (d) pursue any other remedy it may now or hereafter have against Borrower, or, if Borrower is a partnership, any general partner of Borrower.

5. At any time or from time to time and any number of times, without notice to Guarantors and without affecting the liability of Guarantors, (a) the time for payment of the principal of or interest on the Indebtedness may be extended or the Indebtedness may be renewed in whole or in part; (b) the time for Borrower's performance of or compliance with any covenant or agreement contained in the Agreement, the Security Instrument or any other Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Indebtedness may be accelerated as provided in the Agreement, the Security Instrument, or any other Loan Document; (d) the Agreement, the Security instrument, or any other Loan Document may be modified or amended by LFUCG and Borrower in any respect, including an increase in the principal amount; and (e) any security for the Indebtedness may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the indebtedness.

6. If more than one person executes this Guaranty, the obligations of those persons under this Guaranty shall be joint and several. LFUCG, in its discretion, may (a) bring suit against the Guarantors, or any one or more of the Persons constituting the Guarantors, and any Other Guarantor, jointly and severally, or against any one or more of them; (b) compromise or settle with any one or more of the Persons constituting the Guarantors or any Other Guarantor, for such consideration as LFUCG may deem proper; (c) release one or more of the Persons constituting the Guarantors, or any Other Guarantor, from liability; and (d) otherwise deal with the Guarantors and any Other Guarantor, or any one or more of them, in any manner, and no such action shall impair the rights of LFUCG to collect from the Guarantors any amount guaranteed by the Guarantors under this Guaranty. Nothing contained in this paragraph shall in any way affect or impair the rights or obligations of the Guarantors with respect to any Other

Guarantor. Any indebtedness of Borrower held by the Guarantors now or in the future is and shall be subordinated to the Indebtedness and any such indebtedness of Borrower shall be collected, enforced and received by Guarantors, as trustee for LFUCG, but without reducing or affecting in any manner the liability of the Guarantors under the other provisions of this Guaranty.

7. The Guarantors shall have no right of, and hereby waives any claim for, subrogation or reimbursement against Borrower or any general partner of Borrower by reason of any payment by the Guarantors under this Guaranty, whether such right or claim arises at law or in equity or under any contract or statute, until the Indebtedness has been paid in full and there has expired the maximum possible period thereafter during which any payment made by Borrower to LFUCG with respect to the Indebtedness could be deemed a preference under the United States Bankruptcy Code.

8. If any payment by Borrower is held to constitute a preference under any applicable bankruptcy, insolvency, or similar laws, or if for any other reason LFUCG is required to refund any sums to Borrower, such refund shall not constitute a release of any liability of the Guarantors under this Guaranty. It is the intention of LFUCG and the Guarantors that the Guarantor's obligations under this Guaranty shall not be discharged except by Guarantor's performance of such obligations and then only to the extent of such performance.

9. The Guarantors shall from time to time, upon request by Lender, deliver to Lender such financial statements as LFUCG may reasonably require.

10. LFUCG may assign its rights under this Guaranty in whole or in part and, upon any such assignment, all the terms and provisions of this Guaranty shall inure to the benefit of such assignee to the extent so assigned. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors and assigns of such parties.

11. This Guaranty and the other Loan Documents represent the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. There are no unwritten oral agreements between the parties. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Guaranty and the other Loan Documents. The Guarantors acknowledges that it has received a copy of the Agreement and all other Loan Documents. Neither this Guaranty nor any of its provisions may be waived, modified, amended, discharged, or terminated except by an agreement in writing signed by the party against which the enforcement of the waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in that agreement.

12. The Guarantors agree that any controversy arising under or in relation to this Guaranty shall be litigated exclusively in the jurisdiction where the Land is located (the "Property Jurisdiction"). The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Guaranty, the Agreement, the Security Instrument or any other Loan Document. The Guarantors irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

13. The Guarantors agree to notify LFUCG (in the manner for giving notices provided in the Agreement) of any change in the Guarantor's address from,

4197 John Alden Lane
Lexington, Kentucky 40504

within 10 Business Days after such change of address occurs.

14. The Guarantors and LFUCG each (A) agrees not to elect a trial by jury with respect to any issue arising of this Guaranty or the relationship between the parties as Guarantors and LFUCG that is triable of right by jury and (B) waive any right to trial by

jury with respect to such issue to the extent that any such right exists now or in the future. This waiver of right to trial by jury is separately given by each party, knowingly, voluntarily, with the benefit of competent legal counsel.

IN WITNESS WHEREOF, the Guarantors have signed and delivered this Guaranty or has caused this Guaranty to be signed and delivered by its duly authorized representative.

GUARANTOR

GUARANTOR

Fred Worsham

Carol Worsham

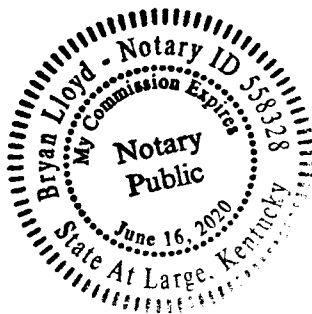
Fred Worsham

Carol Worsham

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing instrument was subscribed, sworn to and acknowledged before me by Fred Worsham and Carol Worsham, on this the 22nd day of August, 2017.

My commission expires: 06/16/2020



Bryan Lloyd
Notary Public, Commonwealth of Kentucky

EXHIBIT D
(Property Description)

Being all of Lot No. 7 of Whitney Woods Place (formerly West Side Apartments), Lexington, Fayette County, Kentucky, as designated on final record plat thereof in Plat Cabinet K, Slide 190, in the office of the Fayette County Clerk. The improvements thereon being known and designated as 700 Whitney Woods Place; and

Being a portion of the same property conveyed to Westside Apartments, Ltd., a Kentucky limited partnership, by deed dated July 31, 1995, of record in Deed Book 1800, Page 342, in the office of the Fayette County Clerk.