

PREPARED BY: City Attorney's Office
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Subordination of Real Estate Indenture of Covenants

Whereas, City of Rapid City, as Mortgagee, hereinafter referred to as "Subordinating Mortgagee", holds an Indenture of Covenants executed by Youth and Family Services, Inc., hereinafter referred to as "Owner", dated, Oct 21, 2013, and recorded on Nov 21, 2013, in A201319176, with the Register of Deeds of Pennington County, South Dakota, encumbering the following described property:

Legal Description: Lot Three (3) of Block Twenty-One (21), Wise's Addition to the City of Rapid City, Pennington County, South Dakota

Whereas, Owner has executed or is about to execute, a mortgage and note in the sum of \$ _____, to be dated _____, in favor of Wells Fargo Community Development Enterprise Round 12 Subsidiary 22, LLC; NCIF New Markets Capital Fund XXIX CDE, LLC and PCG Sub CDE 5, LLC (collectively, NMTC Lenders), its successors and/or assigns, hereinafter referred to a "New Lender", dated _____ and recorded on _____, in Book _____ on Page _____, with the Register of Deeds of Pennington County, payable with interest and upon the terms and conditions described therein, which mortgage has or is to be recorded; and

Whereas, it is a condition precedent to obtaining said loan that New Lender's mortgage shall unconditionally be and remain at all times a lien or charge upon the land above described, prior and superior to Subordinating Mortgagee's mortgage; and

Whereas, New Lender is willing to make said loan provided its mortgage securing the same is a lien or charge upon said land prior and superior to Subordinating Mortgagee's mortgage above described and provided that Subordinating Mortgagee will specifically and unconditionally subordinate and subject its mortgage above described, together with all rights and privileges thereunder, to the lien or mortgage in favor of New Lender; and

Now Therefore, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce New Lender to make the above referred to, it is hereby declared, understood and agreed as follows:

- (1) That the mortgage securing the note in favor of New Lender, and any renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the land described therein, prior and superior to Subordinating Mortgagee's mortgage above described, and to all rights and privileges of Subordinating Mortgagee thereunder; and Subordinating Mortgagee's mortgage together with all rights and privileges of Subordinating Mortgagee thereunder is hereby subjected, and made subordinate to the lien or charge of the mortgage in favor of New Lender.

- (2) That New Lender would not make its loan above described without this Subordination of Mortgage.
- (3) That this Subordination of Mortgage shall be the whole and only document with regard to the subjection and subordination of Subordinating Mortgagee's mortgage together with all rights and privileges of Subordinating Mortgagee thereunder to the lien or charge of the mortgage in favor of the New Lender.

Subordinating Mortgagee declares, agrees and acknowledges that:

- (a) It consents to and approves (i) all provisions of the notes and mortgage in favor of New Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements between Owner and New Lender for the disbursement of the proceeds of New Lender's Loan; and
- (b) New Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has New Lender represented that it will see to the application of such proceeds by the person or persons to whom New Lender disburses such proceeds, and any application or use of such proceeds for the purposes other than those provided for in such agreement or agreements, shall not defeat the subordination herein made in whole or in part; and
- (c) It intentionally and unconditionally waives, relinquishes, subjects and subordinates its mortgage above described, together with all rights and privileges of Subordinating Mortgagee thereunder in favor of the lien of the New Lender above referred to, and understands that in reliance upon and in consideration of this waiver, relinquishment, subjection and subordination, specific loans and advances are being and will be made and as part and parcel thereof specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment, subjection or subordination.

In Testimony whereof, the said Subordinating Mortgagee has caused these presents to be executed this _____ day of April, 2018.

Steve Allender
Mayor of Rapid City

ATTEST:

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Finance Officer

