

**WHEN RECORDED MAIL TO:**

Glacier Bank  
Attn: Jennifer Wheeler  
202 S. Main Street  
P.O. Box 27  
Kalispell, MT 59903-0027

**GROUND LEASE ESTOPPEL CERTIFICATE #22799**

THIS GROUND LEASE ESTOPPEL CERTIFICATE (this “Agreement”) is made and entered into as of the \_\_\_\_ day of [\_\_\_\_], 2022, by and among the CITY OF KETCHUM, an Idaho municipal corporation (“Landlord”), KETCHUM COMMUNITY DEVELOPMENT CORPORATION, a Idaho nonprofit corporation (“Tenant”), WNC HOLDING, LLC, a California limited liability company, its successors and assigns (“WNC”); and GLACIER BANK, its successors and assigns (“Lender”).

**RECITALS:**

- A. Landlord and Tenant entered into the Ground Lease for Bluebird Village recorded in the real property records of Blaine County, Idaho as Instrument No. 689499, as amended by that certain Amended and Restated Ground Lease for Bluebird Village recorded in the real property records of Blaine County, Idaho as Instrument No. [\_\_\_\_\_] (collectively the “Ground Lease”), whereby Owner leased the parcel of land located at 480 East Avenue, Ketchum, Idaho 83353, as the land is legally described therein (the “Land”), as well as on Exhibit A attached hereto, to Tenant.
- B. Tenant in conjunction with 9% Bluebird Housing Partners LLC, an Idaho limited liability company (the “9% Bluebird Owner”), 4% Bluebird Housing Partners LLC, an Idaho limited liability company (the “4% Bluebird Owner” together with 9% Bluebird Owner the “Bluebird Project Owners”) are developing and constructing a multifamily affordable housing project including common and areas and first floor commercial space on the Land (the “Project”).
- C. To facilitate the development, construction and operation of the Project, the Tenant and the Bluebird Project Owners will enter into separate subleases (the “Subleases”) for their respective portions of the Land and the improvements to be constructed by the Bluebird Project Owners (the “Subleasehold Interests”).
- D. To further facilitate the development, construction and operation of the Project, the Lender intends to make separate loans to the Bluebird Project Owners (the “Loans”) in connection with the Subleasehold Interests.

- E. The Loans will be secured by, among other things, separate Deeds of Trust, Assignment of Rents, Security Agreements, and Assignments of Sublease and Landlord's Consents, each of even date herewith (as the same may be amended from time to time, the "Mortgage"), executed by tenant, and/or the Bluebird Project Owners, as applicable, in favor of Lender and encumbering the Subleasehold Interests.
- F. To further facilitate the development construction and operation of the Project, WNC has agreed to make capital contributions to each Bluebird Project Owner, subject to the terms and conditions set forth in the Amended and Restated Operating Agreement of each Bluebird Project Owner, in return for a non-managing member interest in each Bluebird Project Owner (the "Capital Contributions")
- G. Lender will only make the Loans upon, among other things, execution and delivery of this Agreement.
- H. WNC will only make the Capital Contributions upon, among other things, execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Landlord Consent. Landlord hereby acknowledges and consents to the execution, delivery and recording, as applicable of the Security Instruments, and agrees that neither the execution, delivery and recording of the Subleases, nor the mortgaging of the Subleasehold Interests, nor the sale or assignment of the Subleasehold Interests through foreclosure or deed in lieu of foreclosure, will cause a default or a breach of any covenant under the Ground Lease.
2. Representations of Landlord and Tenant. Landlord and Tenant hereby separately represent, covenant, warrant and agree as of the date hereof as follows:
  - a. Status of Lease. The Ground Lease is in full force and effect and has not been modified, amended, supplemented or terminated.
  - b. Payment of Rent. All rents and other sums and charges which are due and payable by Tenant under the Ground Lease through the date hereof have been paid in full.
  - c. No Default by Tenant. There is no default on the part of Tenant under the Ground Lease, and no event has occurred or condition exists which, with the passage of time or giving of notice, or both, would constitute a default on the part of Tenant under the Ground Lease.
  - d. No Default by Landlord. There is no default on the part of Landlord under the Ground Lease, and no event has occurred or condition exists which, with the

passage of time or giving of notice, or both, would constitute a default on the part of Landlord under the Ground Lease.

- e. Consent to Deed of Trust. Landlord hereby consents, as applicable, to any and all future modifications (including extensions and additional advances) of the Security Instruments. The Deeds of Trust that are part of the Security Instruments are “Leasehold Mortgage(s)” as that term is defined in the Ground Lease. The Lender is a “Recognized Interest Holder” as that term is defined in the Ground Lease and Landlord hereby consents to Lender being such “Recognized Interest Holder”.
  - f. WNC as Recognized Interest Holder. Landlord hereby consents to WNC as a “Recognized Interest Holder” as that term is defined in the Ground Lease.
  - g. Compliance with Restrictions. Any restrictions as to the use of the Land as set forth in the Ground Lease are being fully complied with by Tenant.
  - h. Ongoing Operations. As long as the Security Instruments encumber the Subleasehold Interests and WNC is a non-managing member in both the Bluebird Project Owners:
    - i. neither Landlord nor Tenant shall enter into, agree or consent to, or acknowledge or approve, any amendment or modification to the Ground Lease, without the prior consent of Lender and WNC;
    - ii. no voluntary agreement by either Landlord or Tenant for the cancellation, surrender and/or termination of the Ground Lease shall be effective without the prior written consent of Lender and WNC;
    - iii. Landlord shall not accept the exercise by the holder of the leasehold interest under the Ground Lease of any right or option contained in the Ground Lease to cancel or terminate the Ground Lease without the prior written consent of Lender and WNC; and
    - iv. Landlord shall not subordinate its interest in the Ground Lease or subject its interest in the Land to any mortgage or other lien on Landlord’s interest in the Land or the Ground Lease unless the holder of such mortgage or other lien agrees not to disturb the rights of Tenant, its successors and assigns, to possess the Land and the Project pursuant to the terms of the Ground Lease as long as there are no uncured defaults on the part of Tenant under the Ground Lease.
3. Tenant Default. Lender and WNC shall receive all notices of default and shall have the opportunity to cure the same as set forth in Section 6.5 of the Ground Lease, all of which is incorporated herein by this reference.

4. Insurance/Condemnation. Lender and WNC shall have all of the rights and remedies with respect to insurance proceeds and condemnation awards as set forth in Article X and Article XII of the Ground Lease, all of which are incorporated herein by this reference.
5. Lender's Possession of Premises. In the event Lender enforces the Security Instruments and acquires possession of the Subleasehold Interests in any lawful manner, Lender and any successor in interest shall be the successor subleasee under the Ground Lease as set forth in Section 6.1 of the Ground Lease and shall have the right to assign its sublease pursuant to Section 6.1 or the Ground Lease.
6. Notices. All notices, consents, requests, demands and other communications hereunder shall be given to or made upon the respective parties hereto at their respective addresses specified below or, as to any party, at such other address as may be designated by it in a written notice to the other party. All notices, requests, consents and demands hereunder shall be effective when personally delivered or deposited in the United States Mail, certified or registered, postage prepaid, addressed as aforesaid:

Landlord: City of Ketchum  
Attn: Mayor  
PO Box 2315, 191 5th Street West, Ketchum, Idaho 83340

with a copy to:

Attn: \_\_\_\_\_

\_\_\_\_\_  
Email: \_\_\_\_\_

Tenant: Ketchum Community Development Corporation  
Attn: Executive Director  
PO Box 6452, Ketchum, Idaho 83340  
Email: [friedman.charles@gmail.com](mailto:friedman.charles@gmail.com)

with copies to:

Winthrop & Weinstine, P.A.  
Attn: Jason C. Harby  
225 S 6<sup>th</sup> Street, Suite 3500 Minneapolis, MN 55402  
Email: [jharby@winthrop.com](mailto:jharby@winthrop.com)

WNC & Associates, Inc.  
WNC Housing, L.P.  
WNC Holding, LLC  
17782 Sky Park Circle  
Irvine, CA 92614-6404  
Attn: Melanie Wenk

Jonathan Sirois, Esq.  
Holland & Knight, LLP  
10 Saint James Avenue  
11th Floor, Boston, MA 02116

Lender: Glacier Bank  
Attn: Jennifer Wheeler  
202 Main Street, P.O. Box 27, Kalispell, Montana 59903  
Email: [jwheeler@glacierbank.com](mailto:jwheeler@glacierbank.com)

with a copy to:

Bjornson Jones Mungas, PLLC  
Attn: David Bjornson  
2809 Great Northern Loop, Suite 100, Missoula, Mt 59808  
Email: [david@bjornsonlaw.com](mailto:david@bjornsonlaw.com)

7. Miscellaneous. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns. This Agreement and the obligations arising hereunder shall be governed by, and construed in accordance with the laws of the State of Montana.

IN WITNESS WHEREOF, this Agreement has been made and entered into as of the day and year first above written.

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COUNTERPART SIGNATURE PAGE

DATED effective as of the Effective Date.

**Owner:** CITY OF KETCHUM, an Idaho municipal corporation

By: \_\_\_\_\_  
Neil Bradshaw, Mayor

Attest:

\_\_\_\_\_  
Lisa Enourato, Interim City Clerk

STATE OF IDAHO   )  
                                  ) ss.  
County of Blaine    )

This record was signed before me on \_\_\_\_\_ by Neil Bradshaw as Mayor,  
and by Lisa Enourato as Interim City Clerk of the City of Ketchum.

\_\_\_\_\_  
Notary Signature

COUNTERPART SIGNATURE PAGE

DATED effective as of the Effective Date.

**Tenant:** KETCHUM COMMUNITY DEVELOPMENT CORPORATION, an Idaho nonprofit corporation

By: \_\_\_\_\_  
Name: Charles Friedman  
Title: President

STATE OF IDAHO )  
                              ) ss.  
County of Blaine )

This record was signed before me on [\_\_\_\_\_, 2022] by Charles Friedman as President of Ketchum Community Development Corporation.

\_\_\_\_\_  
Notary Signature

COUNTERPART SIGNATURE PAGE

DATED effective as of the Effective Date.

**Lender:** Glacier Bank

By: \_\_\_\_\_  
Name: Jennifer Wheeler  
Title: Vice President

STATE OF MONTANA     )  
  ) ss.  
County of Flathead    )

This record was signed before me on [\_\_\_\_\_], 2022 by Jennifer Wheeler as Vice President of Mortgagee.

\_\_\_\_\_  
Notary Signature



COUNTERPART SIGNATURE PAGE

DATED effective as of the Effective Date.

**WNC:** WNC HOLDING, LLC,  
a California limited liability company

By: WNC & Associates, Inc., a California  
corporation, its managing member

By: \_\_\_\_\_  
Melanie Wenk  
Executive Vice President – Business  
Operations

**EXHIBIT A**  
**Legal Description**

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