



July 11 2025

To: Sam Anselm, City Administrator

From: Michael McMahon, Project Coordinator

Re: CDBG - Garner Villas II: Agreement and Signature Authorization

### **Executive Summary**

The purpose of this resolution is to authorize the Mayor or the City Administrator to execute agreements with Garner Villas II, LP. Agreements include a loan agreement and the loan forgiveness agreement along with additional documents that might arise during the completion of the Garner Villas Phase II project. These agreements are needed for the Community Development Block Grant (CDBG) and are for the Garner Villas Phase II project.

### **Discussion**

This agreement is needed to finalize the financing for the Garner Villas II project because the city is acting as a pass through for the grant funding received.

This phase only includes housing work and there will not be further work needed to the utility infrastructure.

### **Fiscal Impact**

There is no additional grant expense, this resolution is to finalize agreements before work continues.

A RESOLUTION OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE MAYOR OR CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT BETWEEN GARNER VILLAS II, LP, A MISSOURI LIMITED PARTNERSHIP (“BORROWER”) AND THE CITY OF WEST PLAINS, MISSOURI, (“LENDER”) (EXHIBIT A), AND THE LOAN FORGIVENESS AGREEMENT (EXHIBIT B) AND ALL OTHER NECESSARY DOCUMENTS AND ACTIONS TO COMPLETE THE PROPOSED PROJECT IN ACCORDANCE WITH THE TERMS AND CONDITIONS AS PREVIOUSLY PRESENTED TO THE CITY COUNCIL.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI AS FOLLOWS:

Section 1: The City authorizes the mayor or city administrator to execute a loan agreement between Garner Villas II, LP, a Missouri Limited Partnership (“Borrower”) and the City of West Plains, Missouri, (“Lender”) (EXHIBIT A) and the Loan Forgiveness Agreement (Exhibit B), and all other necessary documents and actions to complete the proposed project in accordance with the terms and conditions as previously presented to the city council.

Section 2: The city council specifically limits the City’s liability and financial obligation under such agreements to the amount of CDBG grant funds earmarked for this project and actually received by the City. Nothing herein or in the agreements shall be construed as an obligation of the City to pay any other funds for the project, the improvements, maintenance of the property or improvements, insurance or any other cost or expense associated with the project.

Section 3: This Resolution shall be in full force and effect from and after the date of its passage and approval.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

CITY OF WEST PLAINS, MISSOURI

(SEAL) BY: \_\_\_\_\_  
MAYOR MICHAEL TOPLIFF

ATTEST:

\_\_\_\_\_  
CITY CLERK KELLIE MAYERS

**LOAN AGREEMENT**  
**(CDBG-DR LOAN)**

THIS LOAN AGREEMENT (this “Agreement”) dated as of \_\_\_\_\_, 2025 (the “Effective Date”), by and between GARNER VILLAS II, LP, a Missouri limited partnership (“Borrower”) and CITY OF WEST PLAINS, MISSOURI, a political subdivision of the State of Missouri (“Lender”).

**RECITALS**

A. Borrower is the owner of the real property located in West Plains, Missouri described in Exhibit A attached hereto (the “Land”), upon which the Borrower shall develop and construct a 16-unit apartment project, of which 9-units are to be rented to persons and families of low and moderate income, located in West Plains, Howell County, Missouri, to be known as the “Garner Villas”.

B. Borrower intends to improve the Land with all improvements necessary for a multifamily apartment complex (the “Improvements”). The Improvements, together with all fixtures, fittings, appliances, apparatus, machinery, furnishings, equipment, or other personal property and any replacements thereof or substitutes therefor now or at any time hereafter located on or used in any way in connection with the operation of the Land and/or Improvements (the “Personal Property”) are hereinafter sometimes collectively called the “Project”. The Land and the Project are hereinafter sometimes collectively called the “Premises”.

C. Lender will receive CDBG Grant Funds (“CDBG Grant Funds”) for the Project. Borrower desires to borrow from Lender the amount of the CDBG Grant Funds, a maximum principal amount of TWO MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$2,500,000.00) (the “Loan”), for the purpose of financing the development and construction of the Project, all as set forth herein. Lender’s financial obligations with respect to this Loan Agreement and to the Project shall be limited to the amount of CDBG Grant Funds actually received for furtherance of the Project.

D. All capitalized terms not defined herein shall have such meaning give to them in the Note.

**AGREEMENT**

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

*ARTICLE I*  
**BORROWER’S REPRESENTATIONS, COVENANTS,**  
**WARRANTIES AND AGREEMENTS**

As a material inducement to Lender’s entering into this Agreement, Borrower hereby represents, covenants and warrants to, and agrees with Lender as follows:

1.1 Truth of Recitals. Each of the foregoing Recitals is true and correct in all material respects.

1.2 Organization and Authority. Borrower is a limited partnership duly organized and validly existing under the laws of the State of Missouri, and Borrower agrees to maintain its existence as a

limited partnership and its right to do business in the State of Missouri until the Loan is paid in full or is otherwise satisfied. Borrower has full right, power and authority to execute, deliver and carry out the terms and provisions of this Agreement and the other Loan Documents (as hereinafter defined) and any other documents and instruments to be executed and delivered by pursuant to this Agreement.

1.3 Enforceability. This Agreement constitutes, and the Loan Documents and any other documents and instruments to be executed and delivered pursuant to or in connection with this Agreement, when executed and delivered pursuant hereto will constitute, the duly authorized, valid and legally binding obligations of the party or parties executing the same, enforceable in accordance with their respective terms.

1.4 Execution and Delivery. The execution and delivery of this Agreement, the Loan Documents and any other documents or instruments to be executed and delivered by Borrower pursuant hereto, the consummation of the transactions herein or therein referenced, and compliance with the terms and provisions hereof of, will not: (a) to the best of Borrower's knowledge, violate any presently existing material provisions of law or any presently existing applicable material regulation, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality or any applicable material statute, ordinance, code or law; or (b) conflict or be inconsistent with, in any material respect, or result in any breach of, any of the terms, covenants, conditions or provisions of, or constitute a default under, any indenture, mortgage, instrument, document, agreement, or contract of any kind to which Borrower is a party or by which Borrower may be bound.

1.5 No Violations. The Borrower has not received any notice of default under any contract, agreement or commitment to which it is a party or by which it is bound, the effect of which will adversely affect the performance by Borrower of its obligations under or pursuant to this Agreement.

1.6 Title. Borrower is the sole owner and holder of good and marketable fee simple interest in the Land, free and clear of all other liens, claims, rights and encumbrances, and subject only to the matters listed in the Lender's Policy.

1.7 Budgets. The Borrower has previously provided a project budget to the Lender, a copy of which is attached hereto as Exhibit B (the "Project Budget"). The Project Budget sets forth all expenses and costs incurred or estimated to be incurred in connection with the construction and completion of the Project, marketing and other soft costs, operating deficits, and costs and expenses of the Loan. The Project Budget further identifies all costs in connection with the construction and completion of the Project which may be funded from the proceeds of the Loan (the "Construction Costs").

1.8 Taxes, Assessments. Borrower agrees that it shall pay, or cause to be paid, all taxes, assessments and other similar charges which are assessed, levied, imposed, or which become a lien upon or against the Premises or any portion thereof or which become payable with respect thereto or with respect to the occupancy, use or possession of the Premises (collectively, the "Taxes"), and will promptly deliver to Lender proof of payment upon Lender's written request therefor.

1.9 CDBG-DR Covenants. Borrower shall comply, in all material respects, with the obligations of the Lender in its capacity as the "Subrecipient", under the CDBG-DR Documents. Further, Borrower shall cooperate with and provide assistance to Lender with respect to its role as "Subrecipient" under the CDBG-DR Documents.

*ARTICLE II*  
GENERAL CONDITIONS OF LOAN

2.1 Required Documentation. As a condition of the initial Advance of the Loan, Borrower shall execute and deliver or cause to be duly executed and delivered to Lender the following documents, all of which shall be in form and substance satisfactory to Lender (such documents, together with this Agreement, those documents described in Section 2.2 hereof and all other documents and instruments given as security for the indebtedness evidenced by the Note are herein sometimes collectively called the “Loan Documents”):

(a) Deed of Trust and Security Agreement (the “Deed of Trust”) of even date herewith in the maximum principal amount of TWO MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$2,500,000), executed by Borrower and payable to the order of Lender, as subrecipient of the CDBG Grant Funds, ensuring satisfaction of the Loan by Borrower.

(b) Note. Future Advance Promissory Note (the “Note”) of even date herewith in the maximum principal amount of TWO MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$2,500,000.00), executed by Borrower and payable to the order of Lender as set forth therein, which Note has a maturity date as specifically provided in the Note (the “Maturity Date”).

(c) Loan Agreement. This Agreement.

(d) Other. Such other documents or instruments as Lender may reasonably require.

2.2 Additional Requirements. In addition to the documents described in Section 2.1 above as a condition of the closing of the Loan (or at such later date as may be indicated with respect to a particular item), Borrower shall deliver or cause to be delivered to Lender each of the following, all of which shall be in form and substance satisfactory to Lender (acting reasonably):

(a) Insurance Coverages. Borrower shall maintain or cause to be maintained insurance coverages mutually agreed to between Lender and Borrower. In the event of any fire or other casualty to the Improvements or eminent domain proceedings resulting in condemnation of the Improvements, or any part thereof, Borrower shall have the right to rebuild the Improvements, and to use all available insurance or condemnation proceeds therefor.

(b) Project Budget. The Project Budget.

(c) Other Documents. Such other documents and instruments as Lender may reasonably require.

2.3. Lender’s Financial Obligation Limited. The parties acknowledge and agree that Lender’s obligation to loan funds and finance the Project is limited to the amount of CDBG Grant Funds earmarked for this Project actually received by Lender. Nothing herein shall be construed as an obligation of Lender to pay any other funds for the Project, the Improvements, maintenance of the property or improvements, insurance or any other cost or expense associated with the Project.

*ARTICLE III*  
FURTHER COVENANTS, CONDITIONS AND AGREEMENTS

Borrower hereby further covenants, warrants and agrees with Lender as follows:

3.1 Construction of the Improvements. Borrower shall cause construction of the Improvements to be prosecuted with diligence in a good and workmanlike manner, substantially in accordance with the Construction Contract and all building, zoning and other applicable governmental laws, statutes, ordinances, regulations, rules, permits and requirements affecting the Premises.

3.2 Inspections. Borrower will permit, and will cooperate with Lender in arranging for, inspections from time to time of the Premises during normal business hours.

3.3 Maintenance. Borrower shall keep and maintain the Premises in good order, condition and repair in all material respects and will make, as and when the same shall become necessary, all structural and non-structural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen, repairs and maintenance as necessary or appropriate.

3.4 Compliance with Laws. Borrower will comply in all material respects with all: (a) building, zoning, fire, health, environmental and use laws, codes, ordinances, rules, and regulations; (b) covenants and restrictions of record; and (c) easements which are in any way applicable to the Premises or any part thereof or to the construction of any improvements thereon and the use or enjoyment thereof.

#### *ARTICLE IV* LOAN ADVANCES; AGREEMENT TO LEND

##### 4.1 Commitment of Lender; Loan Advances.

(a) Subject to compliance by Borrower with the terms and conditions of this Agreement and subject to Lender's funding limitation, Lender shall make advances in the maximum principal amount of TWO MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$2,500,000.00), to Borrower ("Advances", and each an "Advance") according to the Project Budget (i) for Construction Costs incurred by Borrower in connection with the construction of the Improvements and (ii) for costs, other than Construction Costs, incurred by Borrower in connection with the Loan or the construction of the Improvements (hereinafter referred to as "Other Project Costs"), as itemized in an Application for Certificate for Payment. The Project Budget may be amended during the course of construction to reallocate funds from a budget category in which the full budgeted amount is not required to another budget category.

(b) Each request for an Advance shall be in form and substance reasonably satisfactory to Lender and shall be made directly to the Borrower (any such request being hereinafter referred to as a "Request for Advance"). All requests and requisitions for payment shall be approved by Borrower, which approval shall not be unreasonably withheld, conditioned or delayed, and which shall be deemed given if the Borrower shall fail to respond to any request for approval within ten (10) days of Borrower's Receipt of such request.

4.2 Conditions Precedent to Advances. The following are conditions precedent to any obligation of Lender to make any disbursement of the proceeds of the Loan:

(a) Lender's receipt of CDBG Grant Funds or execution of a Subrecipient Agreement which ensures Lender's receipt of such funds.

(b) Performance. The continued performance, observance and compliance in all material respects by Borrower of and with all of the warranties, covenants and agreements of Borrower contained herein (whether or not non-performance constitutes an Event of Default).

(c) Defaults. Lender shall not be obligated to make further disbursements of Loan proceeds if an Event of Default shall have occurred and be continuing under the Loan Documents beyond the expiration of any notice and cure period.

4.3 Use of Advances. In addition to, and without limitation of any other term and provision hereof relating to disbursements by Lender for any category contained in the Project Budget, it is expressly understood and agreed that the Project Budget reflects by category the purposes for which funds advanced hereunder are to be used, and Lender shall not be required to disburse for any category or purpose more than the amount specified therefor in the Project Budget. Borrower warrants and agrees that the proceeds of the Loan will be used only to the extent necessary for the payment of items referenced in the Project Budget in accordance with the applicable Request for Advance and for no other purpose.

## *ARTICLE V*

### EVENTS OF DEFAULT; REMEDIES

5.1 Each of the following shall constitute an “Event of Default” under this Agreement:

(a) Failure to Pay. Borrower shall fail to pay when due any installment of principal or interest on the Note or any other payment required under any of the Loan Documents; or

(b) Failure to Perform. Borrower fails to comply with, keep or perform any of its undertakings, covenants, its other obligations, agreements, conditions or warranties under any of the Loan Documents (other than a failure described in Section 6.1(a)), and such failure continues for a period of thirty (30) days after written notice thereof to Borrower, provided, however, if Borrower has diligently commenced action to cure the failure and such failure cannot reasonably be cured within thirty (30) days, Borrower shall be allowed an additional period not exceeding ninety (90) days from the initial written notice to cure such failure provided Borrower at all times diligently and continuously prosecutes the cure of such failure.

(c) Cure Rights – Borrower’s Limited Partners. Borrower’s limited partners shall have the right, but not the obligation, to cure any default by Borrower under the loan documents, and Lender agrees to accept any such cure tendered by Borrower’s limited partners within any applicable grace period or cure period available to Borrower.

5.2 Remedies. Upon the happening of any Event of Default, Lender shall have the right, in addition to all the remedies conferred upon Lender by law or equity or the terms of any Loan Document, to do any or all of the following, concurrently or successively, without notice to Borrower:

(a) Acceleration. Declare to be, and the Note shall thereupon become, immediately due and payable without presentment, demand, protest or notice of any kind (other than notice of acceleration), all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding; or

(b) Cessation of Advances. Immediately terminate Lender’s obligations under this Agreement to extend credit of any kind or to make any disbursement, whereupon the commitment and obligation of Lender to extend credit or to make disbursements hereunder shall terminate.

*ARTICLE VI*  
MISCELLANEOUS

6.1 Indemnity. Except to the extent resulting solely from Lender's negligence or intentional misconduct, Borrower agrees to protect, defend, indemnify and hold Lender harmless from and against any and all loss, liability, damage, suit, claim, expense, fees and costs (including, without limitation, any injury or damage to person and/or property occurring on or about the Premises, any court costs and attorneys' fees) arising out of or relating to: (a) Lender's entering into and/or carrying out the terms of this Agreement; or (b) the operation or completion of construction of the Improvements.

6.2 Notices. Any notice required or permitted to be given hereunder must be in writing and shall be deemed to be given when (a) hand delivered with reasonable evidence of receipt, or (b) one business day after pickup by United Parcel Service (Overnight) or Federal Express, or another similar reputable overnight express service, (c) sent by registered or certified mail, postage prepaid, return receipt requested, or (d) transmitted by via e-mail, in any case addressed to the parties at their respective addresses set forth below:

To Borrower: Garner Villas II, LP  
1525 East Republic Road, Suite B100  
Springfield, Missouri 65804  
Attention: Becky Selle  
E-mail: [becky@sustainablehousingsolutions.com](mailto:becky@sustainablehousingsolutions.com)

With copy to: Spencer Fane LLP  
2144 E. Republic Road, B300  
Springfield, Missouri 65804  
Attention: Richard Walters  
Email: [rwalters@spencerfane.com](mailto:rwalters@spencerfane.com)

To Lender: City of West Plains, Missouri  
1910 Holiday Lane  
West Plains, MO 65775  
Attention:  
Email:

With copy to: Stephanie Karr  
130 South Bemiston, Suite 200  
St. Louis, Missouri 63105  
Email: [skarr@chgolaw.com](mailto:skarr@chgolaw.com)

or to such other address as either party may from time to time specify in writing to the other party. An email notice shall be deemed delivered and received (A) if delivered or transmitted before 5:00 pm Central Time on a business day, and (B) otherwise on the next business day following actual delivery or transmittal.

6.3 Partnership Agreement. Notwithstanding anything to the contrary contained herein or in the Loan Documents, the following shall be permitted without consent of Lender and shall not constitute an Event of Default or result in any fee: (i) the transfer of limited partner interests in Borrower pursuant to the terms of Borrower's First Amended and Restated Agreement of Limited Partnership ("Partnership Agreement"); (ii) the removal and replacement of the general partner of the Borrower in accordance with



the terms of the Partnership Agreement, and/or (iii) an amendment of the Partnership Agreement memorializing the transfers or removal described above.

6.4 Successors and Assigns. This Agreement shall inure to the benefit of the parties and their respective successors and assigns, except that unless Lender consents in writing, no assignment made by Borrower in violation of this Agreement shall confer any rights on any assignee of Borrower.

6.5 No Partnership. Nothing in this Note or in any other Loan Document, and no action or inaction whatsoever on the part of Lender, shall be deemed to make Lender a partner or joint ventures with Borrower, and Borrower shall protect, defend, indemnify and hold Lender harmless from and against all claims, loss, cost, expense (including attorney's fees) and damages arising from the relationship between Lender and Borrower being construed as or alleged to be anything other than that of Lender and Borrower.

6.6 Entire Agreement. This Agreement and the Exhibits hereto, and the other Loan Documents constitute the entire agreement between the parties hereto with respect to the subject matter hereof and no provision of any Loan Document may be waived, terminated, modified or amended in any manner other than by supplemental written agreement signed by both parties.

6.7 Governing Law. This Agreement shall be governed by and construed in accordance with, the laws of the State of Missouri.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED as of the Effective Date.

**LENDER:**

CITY OF WEST PLAINS, MISSOURI, a  
municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

GARNER VILLAS II, LP, a Missouri limited  
partnership

By: Garner Villas Management, LLC, its general  
partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **LIST OF EXHIBITS**

Exhibit A	Legal Description
Exhibit B	Project Budget

**EXHIBIT A**

**LEGAL DESCRIPTION**

**EXHIBIT B**

**PROJECT BUDGET**

[SEE ATTACHED BUDGET]

**AGREEMENT**

THIS AGREEMENT (this “Agreement”) dated as of July \_\_, 2025 (the “Effective Date”), by and between GARNER VILLAS II, LP, a Missouri limited partnership (“Borrower”) and CITY OF WEST PLAINS, MISSOURI, a Missouri nonprofit corporation (“Lender”).

**RECITAL**

A. Lender and Borrower are parties to a Loan Agreement dated July \_\_ 2025, (the “Loan Agreement”), whereby Lender advanced to Borrower a loan comprised of CDBG grant funds (the “Loan”). The Loan is evidenced by a Future Advance Promissory Note dated July \_\_, 2025 (the “Note”), and secured by a Deed of Trust and Security Agreement dated July \_\_ 2025 (the “Deed of Trust”). The Loan Agreement, Note and Deed of Trust are collectively referred to herein as the “Loan Documents”).

B. The Loan will be utilized by Borrower to develop and construct a 16-unit apartment project, of which 9-units are to be rented to persons and families of low and moderate income, located in West Plains, Howell County, Missouri, to be known as the “Garner Villas Phase 2” (the “Project”).

C. Lender and Borrower desire to document the treatment of the Loan and the Loan Documents upon the Maturity Date (as defined in the Note), as set forth herein.

**AGREEMENT**

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

1. Upon the Maturity Date or upon earlier notice from the Borrower to the Lender that the Project is complete and that Borrower has complied with all requirements of the Loan Documents (the “Borrower Notice”), the Lender and Borrower agree that the Loan shall be deemed satisfied, forgiven and of no further force or effect, provided that the Project is in material compliance with all applicable laws and regulations as of the Maturity Date or the Borrower Notice and Borrower has fulfilled all requirements set forth in the Loan Documents. Lender and Borrower agree to work together, in good faith, to achieve this result.

[SIGNATURE PAGE FOLLOWS]

EXECUTED as of the Effective Date.

**BORROWER:**

GARNER VILLAS II, LP, a Missouri limited partnership

By: Garner Villas Management II, LLC, its general  
partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LENDER:**

CITY OF WEST PLAINS, MISSOURI, a municipal  
corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_