

April 8, 2019

CHN Housing Partners  
2999 Payne Avenue, 3<sup>rd</sup> Floor  
Cleveland, Ohio 44114  
Attn: Lisa McGovern  
Director of Real Estate Development

Re: License for the purpose of conducting certain due diligence activities

Ladies and Gentlemen:

The City of Parma, Ohio dba Parma Public Housing Agency, a body corporate and politic of the State of Ohio ("Owner"), hereby offers to grant to CHN Housing Partners, an Ohio ("Grantee"), and its consultants, contractors, agents and employees (collectively, "Permittees"), a temporary, revocable license, subject to all of the terms and conditions contained herein (the "License"), to enter upon certain real property commonly known as Chevybrook Estates, 5617 Chevrolet Blvd., Parma, Ohio (consisting of 60 apartment units together with 88 parking spaces), as more particularly described in Exhibit "A", attached hereto and made a part hereof (collectively, the "Property"), on the following terms and conditions:

1. Purpose. The License is for the sole and limited purpose of making reasonable and customary inspections, studies, tests and other evaluations relative to the architectural, physical and environmental condition of the Property, including:

- (i) Architectural, engineering, and accessibility inspections and studies;
- (ii) ASTM Phase I environmental inspections;
- (iii) Inspections by real estate appraisers and prospective lenders; and
- (iv) An ALTA/ACSM Land Title Survey,



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and such other due diligence investigations on the Property as are reasonably necessary to ascertain the fitness of the Property for Grantee's proposed use thereof as an affordable housing complex with surface parking (collectively, the "Work").

2. Restoration. Upon Grantee's completion of the Work, Grantee shall (i) promptly notify Owner thereof, and (ii) immediately restore the Property to its condition immediately prior to the Work and leave the Property in a neat and clean condition, all without cost or expense to Owner. If Grantee shall fail to do so, Owner may do so at Grantee's expense.

3. Costs. The Work and all repair and/or restoration occasioned thereby shall be performed without cost or expense to Owner.

4. Manner of Use. Grantee agrees that in exercising the License: (i) Grantee will not conduct any inspections, studies, tests or other evaluations which involve boring, drilling or other invasive or destructive testing methods without first obtaining Owner's prior written consent, which consent may be withheld in Owner's sole discretion, (ii) Grantee shall conduct the Work in a careful and safe manner with due care for the safety, health and welfare of the occupants of the Property and in compliance with all applicable laws, including without limitation, all laws pertaining to the provision and use of all necessary or appropriate health and safety procedures and personal protective equipment by all persons entering the Property pursuant to the License, (iii) Grantee shall obtain the approval of all lessees or other occupants of the Property prior to entering upon any leased or licensed area in the Property, (iv) neither Grantee, nor any Permittee, nor any person entering the Property under the License, shall cause or permit any interference with or interruption of the occupancy or business operations of Owner or any lessee or other occupant of the Property. Prior to entering the Property, Grantee shall give Owner at least two business days advance written notice setting forth the time and date of such inspection and listing the names and employer of each person that will enter upon the Property. Owner hereby reserves the right to have a representative of Owner accompany Grantee at all times that Grantee and/or its Permittees are on or about the Property. Access to tenant units may only occur subject to the tenants' consent. Grantee expressly agrees that any contacts that it and/or its Permittees may have with tenants and other occupants of the Property shall comply with applicable Federal, state and local laws and regulations.

5. (a) Waiver of Claims. Grantee hereby waives any and all claims against Owner, the Owner Parties (as defined below), and all mortgagees and ground or underlying lessors of the Property that arises in connection with the entry upon the Property hereunder or otherwise by Grantee, any Permittee, and/or anyone claiming by, through or under either such party.

(b) Indemnity. Except to the extent any of the same shall be caused by the gross negligence or willful misconduct of Owner, Grantee shall protect, defend, indemnify, save and hold harmless Owner and its employees, agents, contractors, consultants, tenants and other

occupants of the Property and permittees (collectively, the "Owner Parties") against and from any and all claims, demands, fines, suits, liens, actions, proceedings, orders, decrees and judgments of any kind or nature by or in favor of anyone whomsoever, and against and from any and all liability, costs, expenses, and damages, including attorneys' fees, resulting from or occasioned in whole or in part by any act or omission of Grantee, any Permittee, and/or any employees, agents, contractors or invitees of either Grantee or any Permittee, in, upon, at or from the Property in connection with any such party's use and occupancy of the Property and/or performance of the Work.

6. Insurance. Grantee shall, and shall cause its Permittees to, procure and continue in force from and after the date Grantee enters the Property, and continuing throughout the Term (as set forth in paragraph 7 below), the following insurance coverages placed with responsible insurance companies having an A.M. Best's rating of A VII or above:

Comprehensive General Liability Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence, or Commercial General Liability Insurance, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate.

All environmental consultants retained by or on behalf of Grantee shall also have Contractor's Professional Liability and Pollution Liability insurance coverage with limits of liability of not less than \$1 Million per occurrence and in the aggregate.

Such insurance policy shall be issued by an insurance company licensed to do business in the State of Ohio. Owner, its employees, and its designee(s) shall be included as Additional Insureds under all such insurance. In addition, Grantee and each Permittee entering the Property shall also procure and continue in force during the Term Workers' Compensation Insurance in amounts as required by law. Grantee shall deliver a Certificate of Insurance to Owner evidencing the coverage required hereunder prior to the date Grantee or any Permittee enters the Property. Such insurance may not be canceled or amended except-upon thirty (30) days prior written notice to Owner. The minimum limits of the insurance coverage to be maintained by Grantee and its Permittees hereunder shall not limit any such party's liability under this License.

7. Term. The term of the License (the "Term") shall commence on the date of receipt by Owner of both (i) counterpart of this Agreement that has been duly executed by Grantee, and (ii) the insurance certificate required under paragraph 6 above, and shall terminate upon the occurrence of the earliest to occur of the following:

- (a) Twenty-four (24) hours after receipt by Grantee of notice of termination from Owner, which may be exercised by Owner in its sole discretion; or

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- (b) Transfer of title to the Property to Grantee or its nominee; or
- (c) Midnight, August 31, 2019.

All other rights and obligations of the parties hereunder shall survive and be enforceable after the expiration or sooner termination of the Term, as more fully provided in paragraph 14 hereof.

8. Assignment. Grantee shall not sell, assign, pledge or in any manner transfer the License, this Agreement (as hereinafter defined), or any interest therein. Any purported sale, assignment, pledge or transfer shall be void *ab initio*.

9. Confidentiality. All documents, results, materials, and other information generated or acquired by Grantee or its Permittees relating to activities under this Agreement and/or the Property, including without limitation, any draft or final reports, any sampling results, and any correspondence (collectively, the "Studies and Reports") constitute confidential information that shall not be disclosed to or discussed with any person or party outside of Grantee and its Permittees without the prior written consent of Owner. If Grantee or its Permittees are served with a subpoena, discovery request or other demand for Studies and Reports from a government agency or other third party, or become aware of any facts, circumstances, or occurrence that potentially may trigger a reporting or disclosure requirement under applicable law, Grantee shall notify Owner in writing immediately in order to afford Owner with the opportunity to evaluate whether any facts, circumstances, or occurrence are required to be reported or disclosed and to object to any such subpoena, request or demand. Pending Owner's decision on whether any facts, circumstances, or occurrence needs to be reported or disclosed and Owner's exercise of its legal rights to object to any such subpoena, request or demand, Grantee and its Permittees shall not disclose any Studies and Reports to any government agency or other third party except to the extent that such failure to disclose would expose Grantee and/or its Permittees (as the case may be) to contempt of court or a fine or other penalty. Grantee shall accord such confidential information no lesser care or protection than it accords its own confidential information and will ensure that its Permittees conform to the same standards. If Owner and Grantee do not consummate a sale or lease of the Property, Grantee shall, upon Owner's written request (a) deliver to Owner, at no expense to Owner, all Studies and Reports, including all copies thereof, or such specific portion or portions thereof as Owner may request, (b) destroy such Studies and Reports, proof of which shall be furnished to Owner, and/or (c) agree to maintain the confidentiality of such Studies and Reports and to otherwise comply with the provisions of this paragraph 9 in perpetuity, as Owner may direct. Grantee further will ensure that none of its Permittees retain any such Studies and Reports.

10. Liens. Grantee shall do all things necessary to prevent the filing of any mechanics' or other liens against the Property or the interest of any mortgagee or ground or underlying lessor therein by reason of any work, labor, services or materials performed or

supplied or claimed to have been performed or supplied to Grantee or anyone claiming by, through or under Grantee (including any Permittee). If any such lien shall at any time be filed, Grantee shall either cause the same to be vacated and cancelled of record within ten (10) days after the date of the filing thereof or, if Grantee in good faith determines that such lien shall be contested, Grantee shall furnish such security, by surety bond or otherwise, as may be necessary or be prescribed by law to release the same as a lien against the real property and to prevent any foreclosure of such lien during the pendency of such contest. If Grantee shall fail to vacate or release such lien in the manner and within the time period provided herein, then in addition to any other right or remedy of Owner resulting from Grantee's said default, Owner may, but shall not be obligated to, vacate or release the same either by paying the amount claimed to be due or by procuring the release of such lien by giving security or in such other manner as may be prescribed by law. Grantee shall repay to Owner on demand all sums disbursed or deposited by Owner pursuant to the provisions of this paragraph, including Owner's costs and expenses and attorney's fees incurred in connection therewith. However, nothing contained herein shall imply a consent or agreement on the part of Owner or any ground or underlying lessor or mortgagee to subject their respective estates or interests to liability under any mechanics' or other lien law, whether or not the performance or the furnishing of such work, labor, services or materials to Grantee or anyone claiming by, through or under Grantee (including any Permittee) shall have been consented to by Owner and/or any of such parties.

11. No Offer to Sell, Purchase, or Lease. It is understood and agreed that this letter (the "Agreement") shall not in any way constitute an offer or agreement by Owner to sell or lease, or by Grantee to purchase, take, or accept, the Property, and this Agreement is not, and shall not in any way be deemed to constitute, a purchase and sale agreement or lease. Neither party shall have any obligation hereunder to commence or to continue negotiations with the other, or to enter into a purchase and sale agreement or lease, or to sell, convey, purchase, lease and/or accept the Property. Grantee agrees that Owner is under no legal obligation of any kind whatsoever with respect to the sale, lease or other transfer of the Property by virtue of this Agreement, the delivery of any information, any discussions concerning the Property, or otherwise, unless and until a binding written agreement is properly authorized by the governing board of the Parma Public Housing Agency and the Parma City Council, executed by the appropriate officials, and delivered by all parties thereto. Grantee acknowledges that the decision of who, if anyone, the Property will be sold to, is at Owner's sole discretion until the aforesaid actions are taken and completed.

12. Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, partners or joint venturers, it being understood that nothing contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of licensor and licensee.

13. Liability of Grantee. Grantee covenants and agrees with Owner that, notwithstanding anything to the contrary, it is entering into this Agreement to conduct its own “due diligence” activities as it deems necessary or appropriate, it accepts the condition of the Property on an “as is” basis; that any activities conducted on the Property will be performed at Grantee’s own risk; and that Grantee assumes responsibility for its actions and those of its Permittees.

14. Survival. Notwithstanding anything to the contrary, all provisions of this Agreement and the parties’ rights and obligations hereunder other than the License and the Term shall survive and be enforceable after the occurrence of (a) the expiration or sooner termination of the Term, as well as (b) the delivery and filing for record of a deed to or lease of the Property to Grantee (should such a conveyance or lease ultimately occur), and shall not be merged therein or extinguished thereby.

15. Miscellaneous.

- (a) Governing Law/Jurisdiction. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Grantee hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.
- (b) Entire Agreement. This Agreement, including any exhibits hereto, contains the entire understanding among the parties and their agents and supersedes any prior understandings or agreements between them respecting the within subject matter (i.e., access to the Property for certain due diligence activities). There are no duties, obligations, terms, covenants, conditions, representations, warranties, promises, arrangements or understandings, oral or written, between or among the parties and their agents relating to the subject matter of this Agreement which are not fully expressed herein, all prior terms, covenants, conditions, representations, warranties, promises, arrangements and understandings being merged herein and extinguished.
- (c) Paragraph Headings; Gender and Number. The headings inserted at the beginning of each paragraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any of the terms or provisions hereof. The plural number shall include the

singular, and the singular number the plural, wherever the context so admits. The use of any one gender shall include all others.

- (d) Herein. The terms "herein," "hereof," "hereunder" or words of similar import shall be deemed to refer to this Agreement in its entirety unless otherwise specifically stated.
- (e) Notices. Every notice, demand, consent, request, approval, report, offer, acceptance, certificate, or other communication which may be, or is required to be, given or delivered under or with respect to this Agreement shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, and directed to the other party at its address set forth below, or at such other address within the continental United States as any party may hereafter designate by similar notice to the other:

To Owner: City of Parma  
d/b/a/ Parma Public Housing Agency  
Law Department  
Parma City Hall  
6611 Ridge Road  
Parma, Ohio 44129  
Attn: Timothy Miller, Esq.

With a simultaneous copy to: Brouse McDowell  
600 Superior Ave., East, Suite 1600  
Cleveland, OH 44114  
Attn: Stephen P. Bond, Esq.  
Daniel K. Wright, II, Esq.

To Grantee: CHN Housing Partners  
2999 Payne Avenue, 3<sup>rd</sup> Floor  
Cleveland, Ohio 44114  
Attn: Lisa McGovern  
Director of Real Estate Development

With a simultaneous copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices shall be deemed to have been given on the date shown on the return receipt; provided that if delivery is refused, such notice shall be deemed given and served on the date delivery is first attempted. Any party may give any other party written notice hereunder by any means other than United States registered or certified mail which is reasonably calculated to reach the other party, including but not limited to personal delivery, facsimile, email, and/or overnight courier, provided that any such notice shall be deemed to have been given and shall be effective only when actually received by the addressee, proof of which shall be furnished by the party sending such notice.

- (f) Amendment/Waiver. The terms, covenants, conditions and provisions of this Agreement may be amended, modified, supplemented, and/or waived only by an instrument in writing that is duly executed by the party against whom such amendment, modification, supplement, and/or waiver (as the case may be) is sought to be enforced. One or more waivers of any covenant, term or condition of this Agreement or any breach thereof by either party shall not be construed as a waiver of such, term, covenant, or condition for the future or of any subsequent breach; nor shall any delay or omission by either party to seek a remedy for a breach of this Agreement or to exercise a right accruing to such party by reason of such breach be deemed a waiver by such party of its rights or remedies with respect to such breach. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary the requirement for such consent to or approval of any subsequent similar act.
- (g) Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns.
- (h) Counterparts. This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, and all of which shall together constitute one and that same document, and shall be binding on the signatories; and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.
- (i) Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held void or



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invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held void or invalid or unenforceable shall not be affected thereby, and each and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

- (j) Preparation of Agreement. This Agreement shall not be construed more strongly against either party regardless of who is responsible for its preparation, each having contributed substantially and materially to the preparation hereof.
- (k) Authority. Each signatory hereto certifies that he or she is duly authorized and empowered to sign and deliver this Agreement on behalf of all entities named below on whose behalf he or she has so acted.
- (l) Remedies Cumulative. Each right, privilege, option, and remedy afforded to any party by the provisions of this Agreement shall be separate, distinct, and cumulative and shall be in addition to every other right, privilege, option, or remedy provided for in this Agreement or now or hereafter existing at law, in equity, or otherwise. A party's exercise or commencement of exercise of any one or more of the rights and/or remedies provided for in this Agreement or now or hereafter existing at law, in equity, or otherwise shall not be deemed or construed to be a waiver of or to prejudice or preclude the concurrent or later exercise by such party of any or all other rights and/or remedies provided for in this Agreement or now or hereafter existing at law, in equity, or otherwise.

To accept this offer, please execute, date and return this letter to Owner.

[Page 10, the signature page, follows]

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Very truly yours,

The legal form and correctness of this Agreement is hereby approved:

**City of Parma Law Department**  
Timothy Dobek, Director of Law

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

Date: \_\_\_\_\_

**OWNER:**

**CITY OF PARMA, OHIO dba PARMA  
PUBLIC HOUSING AGENCY**

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

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

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

ACCEPTED AND AGREED TO THIS \_\_\_\_  
DAY OF APRIL, 2019.

**GRANTEE:**

**CHN HOUSING PARTNERS**

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

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

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

DKW:gb  
Attached: Exhibit A – Legal Description

[Signature page to License for the purpose of conducting certain due diligence activities bearing the above date by and among the above parties.]

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**CHEVYBROOK ESTATES**

[Attached]