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RESOLUTION NO. R-43-2014

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF VARIOUS TRANSACTION DOCUMENTS RELATED TO THE ALLOCATION TO LAS VEGAS COMMUNITY INVESTMENT CORPORATION OF NEW MARKET TAX CREDITS AND THE SUBSEQUENT ALLOCATION OF A PORTION OF SUCH TAX CREDITS TO LVCIC SUB-CDE I, LLC FOR THE PURPOSES OF RESTORING AND OPERATION OF THE PROPERTY LOCATED AT 330 WEST WASHINGTON AVENUE, LAS VEGAS, NEVADA 89106-3327 AND COMMONLY KNOWN AS THE HISTORIC WESTSIDE SCHOOL AND RELATED AGREEMENTS THERETO ("TRANSACTION DOCUMENTS"); APPROVING THE EXECUTION AND DELIVERY OF THE TRANSACTION DOCUMENTS AND RELATED DOCUMENTS BY THE CITY OF LAS VEGAS, NEVADA, CITY PARKWAY V, INC., LAS VEGAS COMMUNITY INVESTMENT CORPORATION, AND LVCIC SUB-CDE I, LLC; RATIFYING ACTIONS PREVIOUSLY TAKEN AND PERTAINING TO THE FOREGOING BY THE CITY, ITS OFFICERS AND EMPLOYEES AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the City of Las Vegas, a municipal corporation of the State of Nevada (the "City of Las Vegas"), Las Vegas Community Investment Corporation, a Nevada nonprofit corporation (the "Allocatee"), LVCIC SUB-CDE I, LLC, a Nevada limited liability company (the "Sub-CDE"), and City Parkway V, Inc., a Nevada nonprofit corporation ("Lender"), desire to engage in transactions as more particularly described as follows (collectively, the "Transactions"):

WHEREAS, Allocatee received an allocation of New Markets Tax Credits ("NMTC") in the amount of $28,000,000 from the Community Development Financial Institutions Fund ("CDFI Fund") in the 2013 NMTC program year (the "Allocation"). On the date the Transactions are closed and funded (the "Closing Date"), (a) U.S. Bancorp Community Development Corporation, a Minnesota corporation ("USBCDC"), will make an aggregate capital contribution not to exceed $4,250,000 to Twain Investment Fund 62, LLC, a Missouri limited liability company ("Fund 62") in exchange for a 100% membership interest therein; (b) UBSCDC will make an aggregate capital contribution not to exceed $1,250,000 to USBCDC Investment Fund 95, LLC, a Missouri limited liability company ("Fund 95") in exchange for a 100% membership interest therein; (c) Lender will make one or more loans in the aggregate principal amounts not to exceed $8,500,000 to Fund 62 (the "Fund 62 Loan"); (d) Lender will make one or more loans in the aggregate principal amounts not to exceed $2,100,000 to Fund 95 (the "Fund 95 Loan" and together with the Fund 62 Loan, the "Fund Loan"); (e) Fund 62 will use a portion of the proceeds of the USBCDC capital contribution and of the Fund 62 Loan in accordance with the Sub-CDE Operating Agreement (as defined herein), to make a capital contribution to Sub-CDE, in the amount not to exceed $12,750,000 in exchange for a 99.99% membership interest therein; (f) Fund 95 will use a portion of the proceeds of the USBCDC capital contribution and of the Fund 95 Loan to make a capital contribution to USBCDE Sub-CDE 123, LLC, a Missouri limited liability company (the "USBCDE Sub-CDE"), in the amount not to exceed $3,000,000 in exchange for a 99.99% membership interest therein; (g) in accordance with the Sub-CDE Operating Agreement, Allocatee will make a capital contribution not to exceed $1,275 to the Sub-CDE in exchange for a 0.01% membership interest therein; (h) in accordance with the operating agreement of USBCDE Sub-CDE, USBCDE LLC, a Delaware limited liability company ("USBCDE"), will make a capital contribution not to exceed $300 to the USBCDE Sub-CDE in exchange for a 0.01% membership interest therein; (i) the Sub-CDE will make two (2) loans in the aggregate principal amount not to exceed $12,750,000 (the "Project Loans") to Historic Westside School Corporation, a Nevada nonprofit corporation (the "Project Borrower"); (j) the USBCDE Sub-CDE will make two (2) loans in the aggregate principal amount not to exceed $3,000,000.00 to the Project Borrower; and (k) the Sub-CDE will pay a fee in the amount not to exceed $400,000 to the Allocatee.

WHEREAS, the Allocatee has allocated from the Allocation not to exceed $12,750,000 of NMTC authority to the Sub-CDE, and the Sub-CDE has designated the Fund 62's not to exceed $12,750,000 capital contribution as a "qualified equity investment" (a "QEI"). The City of Las Vegas will lease to the Project Borrower pursuant to that certain Site Lease certain real property having an address of 330 West Washington Avenue, Las Vegas, Nevada 89106-3327 (the "Property") and thereby the Project Borrower will be the owner of a long-term leasehold interest in the Property. Project Borrower intends to rehabilitate a historic building on the Property (the "Building"), and then lease the Building and the Property back to the City of Las Vegas pursuant to that certain Project Lease, which in turn will sublease the building to third party tenants (the "Project"). The Project Borrower will use the proceeds of the Project Loans to finance the Project.

WHEREAS, the Transactions are intended to provide financing for the Project in a manner that entitles USBCDC to new markets tax credits (the "NMTCs") pursuant to Section 45D of the Internal Revenue Code of 1986, as amended (the "Code"). More specifically, the Sub-CDE is designed to constitute a "qualified community development entity," each of the Fund 62's capital contribution to the Sub-CDE is designed to qualify as a QEI, the Project Borrower is designed to qualify as a "qualified active low-income community business," and the Project Loans are each designed to qualify as a "qualified low-income community investment," as all of such terms are defined in Section 45D of the Code.

WHEREAS, Project Borrower has represented to the City of Las Vegas that Project Borrower has made application to qualify for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

WHEREAS, (i) Project Borrower pursuant to the Site Lease will provide to the residents of the City of Las Vegas a service that the City of Las Vegas will otherwise have to expend money to provide, (ii) the Property pursuant to the Site Lease will be used by the Project Borrower to perform a service of value to members of the general public, (iii) the amount of rent to be paid by the Project Borrower under the Site Lease is the maximum amount of rent that Project Borrower is able to pay, and (iv) the service to be provided by Project Borrower pursuant to the Site Lease will be of assistance to the Las Vegas Redevelopment Agency.

WHEREAS, as part of the Transactions, there have been filed with the City Clerk, the forms of the following documents to be executed and delivered by the respective parties thereto (the "Transaction Documents"):

<u>City of Las Vegas Agreements.</u> The following are agreements to be entered into directly on or before the Closing Date by the City of Las Vegas (the "City Transaction Documents"):

(a) Site Lease by and between Project Borrower, as lessee, and the City of Las Vegas, as lessor;

(b) Project Lease Agreement by and between Project Borrower, as lessor, and the City of Las Vegas;

(c) Building Rehabilitation Agreement by and between the City of Las Vegas and Project Borrower;

(d) Construction and Disbursing Escrow Agreement by and between the City of Las Vegas and various parties;

(e) Construction Manager at Risk Construction Services Agreement by and between the City of Las Vegas and Construction Whiting-Turner contracting Company ("CMR Agreement"); and

(f) Any instruments, agreements, certificates, and documents as may be required in connection with, or which are otherwise related to, the Transactions.

Lender/Allocatee/Sub-CDE Agreements. The following are agreements to be entered into on or before the Closing Date by Allocatee, Lender and Sub-CDE in connection with the Transactions:

(a) Fund Loan Agreement by and between Lender and Fund 62 ("Fund 62 Loan Agreement");

(b) Fund Loan Agreement by and between Lender and Fund 95 ("Fund 95 Loan Agreement");

(c) Loan Agreement by and between Sub-CDE, Project Borrower and USBCDE Sub-CDE ("Project Loan Agreement");

(d) Pledge Agreement by and between Lender and Fund 62 ("Fund 62 Pledge Agreement");

(e) Pledge Agreement by and between Lender and Fund 95 ("Fund 95 Pledge Agreement");

(f) New Markets Tax Credit Indemnification Agreement by and among Sub-CDE, LVCIC and USBCDC ("Recapture Indemnity Agreement");

(g) Amended and Restated Operating Agreement of LVCIC Sub-CDE I, LLC by and between Allocatee, as managing member, Fund 62, as investor member, and Susan Boniella, as withdrawing member, ("Sub-CDE Operating Agreement");

(h) Asset Management Agreement by and between Allocatee and Sub-CDE ("Asset Management Agreement");

(i) Sponsor Agreement by and between Allocatee and Sub-CDE ("Sponsor Agreement"); and

(l) Any instruments, agreements, certificates, and documents as may be required in connection with, or which are otherwise related to, the Transactions.

RESOLVED, that (i) the Manager of Purchasing and Contracts for the City of Las Vegas or his/her designee ("City Purchasing and Contracts Manager") is hereby authorized and directed to execute and deliver the CMR Agreement and (ii) the Mayor of the City of Las Vegas or her designee (the "Mayor") is hereby authorized and directed, in the name of the City of Las Vegas, to execute and deliver all of the other City Transaction Documents. The City Purchasing and Contracts Manager or the Mayor shall be referred to herein as a "City Authorized Representative."

RESOLVED FURTHER, the form, terms, and provisions of the various documents to be executed and delivered to or with respect to the Transactions, including, without limitation all City Transaction Documents, are hereby ratified, approved, and confirmed, and the transactions described in and contemplated by the City Transaction Documents, are approved, ratified, and confirmed.

RESOLVED FURTHER, that any and all of the City Transaction Documents may contain such recitals, covenants, agreements, and other provisions as may be required and the applicable City Authorized Representative may approve, and the execution of such instruments, agreements, certificates, and documents by the applicable City Authorized Representative shall be conclusive evidence of such approval, and that the applicable City Authorized Representative is authorized from time to time to execute amendments, modifications, waivers, renewals or extensions of any and all such instruments, agreements and documents.

RESOLVED FURTHER, all actions previously taken by or on behalf of the City of Las Vegas in connection with the Transactions and the City Transaction Documents are hereby ratified, approved and confirmed, and no further action by or on behalf of the City of Las Vegas or any other person is required.

RESOLVED FURTHER, the City approves the Lender entering into and performing the obligations under the Fund 62 Loan Agreement; Fund 95 Loan Agreement; Fund 92 Pledge Agreement; and Fund 65 Pledge Agreement; in substantially the forms of such documents on file with the City Clerk, with only such changes therein as are required by the circumstances and are not inconsistent herewith. The City authorizes Elizabeth Fretwell or her designee ("Lender's Authorized Representative") to execute and deliver the documents on behalf of Lender as are required hereby and any instruments, agreements, certificates, and documents as may be required in connection with, or which are otherwise related to, the Transactions and which Lender's Authorized Representative may approve, including opening any bank accounts necessary to facilitate the Transaction.

RESOLVED FURTHER, the City approves Allocatee entering into and performing the obligations under Asset Management Agreement and Sponsor Agreement in substantially the forms of such documents on file with the City Clerk, with only such changes therein as are required by the circumstances and are not inconsistent herewith. The City approves Scott D. Adams or his designee (the "Authorized Representative of Allocatee and Sub-CDE") to execute and deliver the documents on behalf of Allocatee as are required hereby and any instruments, agreements, certificates, and documents as may be required in connection with, or which are otherwise related to, the Transactions and which the Authorized Representative of Allocatee and Sub-CDE may approve.

RESOLVED FURTHER, the City approves Sub-CDE entering into and performing the obligations under the Project Loan Agreement; Sub-CDE Operating Agreement; Asset Management Agreement; Sponsor Agreement; and Recapture Indemnity Agreement; and in substantially the forms of such documents on file with the City Clerk, with only such changes therein as are required by the circumstances and are not inconsistent herewith. The City approves the Authorized Representative of Allocatee and Sub-CDE to execute and deliver on behalf of Sub-CDE the documents as are required hereby and any instruments, agreements, certificates, and documents as may be required in connection with, or which are otherwise related to, the Transactions and which the Authorized Representative of Allocatee and Sub-CDE may approve, including opening any bank accounts necessary to facilitate the Transaction.

RESOLVED FURTHER, all actions previously taken by or on behalf of Lender, Allocatee and Sub-CDE in connection with the Transactions and the Transaction Documents are hereby ratified, approved and confirmed, and no further action by or on behalf of the Lender, Allocatee and Sub-CDE or any other person is required.

RESOLVED FURTHER, that USBCDC, USBCDE, USBCDE Sub-CDE, Fund 62 and Fund 95 are authorized to rely upon the foregoing resolutions unless and until USBCDC, USBCDE, USBCDE Sub-CDE, Fund 62 and Fund 95 receive written notice of revocation, and that the authority hereby granted shall apply with equal force and effect to the successors in office of the Authorized Representative

RESOLVED FURTHER, the City authorizes the officers, employees, agents and representatives of the City to take all action necessary or appropriate to effectuate the provisions of this Resolution.

RESOLVED FURTHER, the City approves the officers, employees, agents and representatives of Lender, Allocatee and Sub-CDE to take all action necessary or appropriate to effectuate the provisions of this Resolution.

PASSED, ADOPTED AND APPROVED THIS 17th DAY OF DECEMBER, 2014.

CITY OF LAS VEGAS

By: ______________________
CAROLYN G. GOODMAN, Mayor

ATTEST:

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BEVERLY K. BRIDGES, MMC, City Clerk

APPROVED AS TO FORM:

______________________ Esq.
Date
12-8-14

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