

REDLG REVOLVING LOAN FUND LOAN AGREEMENT

Date: June 20, 2023

Amount: \$16,000.00

This REDLG Revolving Loan Fund Loan Agreement (“Agreement”) dated as of the date first written above between Whilee Rentals, L.L.C., a Nebraska limited liability company (“Borrower”), and the City of Gothenburg, a Nebraska municipality (“Lender”), sets forth the terms and understandings between the Borrower and Lender regarding a loan (the “Loan”) Lender is making to the Borrower pursuant to Section 313 of the Rural Electrification Act of 1936, as amended (“Act”), 7 CFR part 4280, Subpart A – Rural Economic Development Loan and Grant Programs (“Regulations”), and the City of Gothenburg REDLG Revolving Loan Fund Plan (“RLF Plan”).

The City has received and loaned funds from the Rural Economic Development Grant Program (“REDLG”) and created the Revolving Loan Fund (“RLF”) from which to make loans and to use loan repayments and interest earnings to make subsequent loans pursuant to the RLF Plan.

The Borrower, has filed an application and supporting materials (collectively, the "Application Materials") with the Lender requesting a loan from the RLF for promoting rural economic development (“Committee”) in accordance with the RLF Plan.

The with the Gothenburg REDLG Loan Review Committee (“Committee”) submitted a recommendation to the Gothenburg City Council (the “Council”) for approval of the Loan, which the Council approved.

Lender wishes to make the Loan to the Borrower of funds from the RLF to finance Approved Purposes, for the rural development project ("Project").

NOW, THEREFORE, in consideration of the mutual agreements herein contained, Lender and the Borrower agree as follows:

A. Loan Terms

1. Lender shall lend Sixteen Thousand U.S. Dollars (\$16,000.00) to the Borrower to be used solely to promote rural economic development as more particularly described in the Application Materials. The term of the Loan will be 7 years, with monthly payments of \$204.28 commencing August 1, 2023, and continuing on the first day of each month thereafter until paid in full (the “Loan”).

2. The loan will be continuously secured to the lender by the following described collateral:

All assets:

All present and future right, title and interest in and to any and all personal property of the Debtor, whether such property is now existing or hereafter created, acquired or

arising and wherever located from time to time, including without limitation, the following categories of property: goods (including inventory, equipment, fixtures, farm products and any accessions thereto), instruments (including promissory notes), documents, accounts (including health-care-insurance receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter-of-credit is evidenced by a writing), commercial tort claims, securities and all other investment property, general intangibles (including payment intangibles and software), all supporting obligations and all proceeds, products, additions, accessions, substitutions and replacements of the foregoing property. Any term used herein is as defined by the Uniform Commercial Code and further as modified or amended by the laws of the jurisdiction which governs this transaction. This financing statement covers, and is intended to cover, all personal property of the Debtor.

3. Lender shall advance the proceeds of the Loan to the Borrower upon execution of this Agreement, a promissory note evidencing the indebtedness ("Note"), and such other additional security documents as Lender may require.

4. The Borrower shall repay the Loan in accordance with the Note to be executed by the Borrower and made payable to Lender. The Borrower shall begin to repay the Loan on the date set forth in the Note and shall continue paying without interruption until all indebtedness associated with the Loan has been repaid in full on or before the final maturity date of the Note.

5. The Loan will bear interest at a rate of 2% per annum.

6. The Borrower will be responsible to reimburse Lender \$200 for attorneys fees related to this transaction.

B. Conditions. The obligation of Lender under this Agreement to consummate this transaction is subject to the following conditions:

1. Receipt by Lender of a borrowing resolution from Borrower that approves the Loan and this transaction; and

2. Receipt by Lender of executed documents referenced in Part A, paragraph 3 of this Agreement.

C. Affirmative Covenants. Borrower agrees as follows:

1. Borrower shall execute and deliver the Note to the Lender in order to evidence its obligation to repay the Loan by the terms of this Agreement and the Note. The Borrower shall pay all indebtedness evidenced by the Note in the manner and at the times described herein and therein.

2. Borrower shall promptly use the proceeds of the Loan only in the manner and exclusively for the purposes set forth in the Application Materials as previously approved by the Lender and in accordance with this Agreement, the Regulations (as they may be amended from time to time), and the RLF Plan. No changes may be made in the foregoing without the prior written approval of the Lender.

3. Borrower shall make all payments on the Note by using an automated clearing house (ACH) system or, if notified by Lender in writing to do so, any other reasonable method of payment specified by Lender. Specific instructions for using ACH will be provided by the Lender.

4. Borrower shall deliver to Lender, and shall maintain a copy at its premises, a certified list of expenditures and attachments as described in this section for review by Lender and its representatives, auditors or others conducting a review or audit for the Borrower and the expenditure of the proceeds of the Loan.

- a. Borrower shall provide an itemized list to the Lender, with attached invoices, receipts, bills of sale, and other evidence representing the items shown on the list that shows the expenditures made on the Project for Approved Purposes using the proceeds of the Loan, with a signed certification from an authorized officer of the Borrower to the effect "I certify that the proceeds of the rural economic development loan from City of Gothenburg were expended on approved purposes as shown on this list and the attached invoices, receipts, bills of sale, and other evidence represent items shown on the list."
- b. Invoices, receipts, bills of sale, and other evidence must at least total the amount of funds that have been provided to the Borrower using the proceeds of the Loan; the certified list must be provided upon completion of the Project or within one year of the date of the advance of funds to the borrower, whichever occurs first. Upon completion of the Project, the Borrower must provide to the Lender a final certified list of the expenditures including the attachments.
- c. Borrower shall expend the Loan funds within two years of the date of the advance of funds to the Borrower, or by such later date as the Government may approve in writing in furtherance of the purposes of the Act. The Borrower shall return to the Lender all funds it provided from the proceeds of the Loan that have not been expended by the second anniversary of the date of the advance of funds to the borrower, as a prepayment on the Note.

5. Borrower shall permit Lender and its agents to inspect and copy its records regarding the Project during regular business hours.

6. Borrower shall permit Lender to monitor performance to ensure that objectives proposed in the Application Materials are being achieved.

7. Borrower shall immediately notify the Lender in writing of the closure of operations of the Borrower, the transfer of operations by the Borrower from the original project site described in the Application Materials, the event of insolvency of Borrower, or the institution of bankruptcy proceedings involving the Borrower.

8. Borrower shall comply with the Regulations, as they may be amended from time to time, including, without limitation, any Federal regulations or Federal statutes which the

Regulations identify as being applicable to activities contemplated by the Application Materials or this Agreement.

9. Borrower shall provide to the Lender, upon completion of the Project, a management representation letter certifying the completion of the project.

10. This Loan is subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975; as amended; and Executive order 11246, Equal Employment Opportunity, as amended by Executive order 11375, Amending Executive Order 11246, Relating to Equal Employment Opportunity. Borrower shall comply with all such requirements in addition to the specific requirements set forth in the Regulations.

11. All facilities of the Project that are open to the public or in which physically handicapped persons may be employed shall be designed, constructed, and/or altered to be readily accessible to, and usable by handicapped persons, and comply with all applicable federal, state, and local laws and regulations.

12. If the Project is in an area subject to flooding, flood insurance must be provided by the Borrower to the extent available and required by law, covering all buildings, machinery, equipment, fixtures and furnishings contained in the buildings.

13. Borrower must certify that it will establish and make a good faith effort to maintain a drug-free workplace program in accordance with federal and state law and regulations.

14. Borrower must comply with, and provide certification with respect to, federal law related to debarment and suspension, and deliver to Lender a duly executed copy of a USDA Form AD-1048.

15. Borrower shall comply with all federal law and regulations related to restrictions on lobbying and shall file a certifications statement regarding the use of federal appropriated funds to lobby the Executive and Legislative branches of the Government, and to file a disclosure form if engaged in these activities using inappropriated funds.

D. Negative Covenant

Borrower shall not enter into or request Lender to approve any agreements which would permit third parties to fund, develop, manage, own, lease or operate the Project in a manner that would violate the Regulations, this Agreement, or the RLF Plan if the Borrower were to undertake such activity in its own name.

E. Representations and Warranties

Borrower represents and warrants that on and as of the date first set forth above:

1. Borrower has been duly organized and validly existing as a limited liability company in good standing under the laws of the State of Nebraska with the power and authority to perform its obligations under this Agreement, the Note, the Regulations, and the RLF Plan.

2. This Agreement, and the Note have been duly authorized, executed and delivered by the Borrower and such documents constitute the legal and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject to: (i) applicable bankruptcy, reorganization, insolvency, moratorium and other laws of general application relating to or affecting creditors' rights generally, and: (ii) the application of general principles of equity regardless of whether such enforceability is considered in a proceeding in equity or at law.

3. The execution or the delivery by the Borrower of this Agreement and the Note, the consummation of the transactions contemplated herein or therein, and the fulfillment by the Borrower of the terms hereof or thereof, do not conflict with or violate, result in a breach of or constitute a default under any term or provision of the certificate of organization or operating agreement of the Borrower or any law or regulation or any order now applicable to the Borrower of any court, regulatory body having jurisdiction over the Borrower, or the terms of any indenture, deed of trust, mortgage, note, note agreement or instrument to which the Borrower or any of its properties is bound. The Borrower has not received any notice from any other party to any of the foregoing that a default has occurred or that any event or condition exists that with the giving of notice or lapse of time or both would constitute such a default.

4. No approval, authorization, consent, order, registration, filing, qualification, license or permit of or with any state or Federal court or governmental agency or body having jurisdiction over the Borrower is required by the Borrower for the consummation by the Borrower of the transactions contemplated by this Agreement or the Note except such as have been obtained.

5. There is no pending or threatened action, suit or proceeding before any court or governmental agency, authority or body or any arbitrator concerning the Borrower, this Agreement or the Note which, if adversely determined, would have a material adverse effect on the Borrower's ability to perform its obligations under this Agreement or the Note.

6. All information, reports and other papers and data furnished to the Lender by the Borrower concerning the application of the Loan were, at the time the same were so furnished, complete and correct in all material respects to the extent necessary to the Lender a true and accurate knowledge of the subject matter and no document furnished or other written statement made to the Lender in connection with the Loan contains any untrue statement of a fact material to the financial condition of the Borrower or the Project or omits to state such a material fact necessary in order to make the statements contained therein not misleading.

7. Borrower has reviewed the Regulations and RLF Plan and understands and accepts the requirements which the Regulations and RLF Plan impose upon it.

8. Borrower does not expect or intend the Project to result primarily in the transfer of any existing employment or business activity from one area to another.

F. Default.

The whole of said principal sum remaining unpaid shall become due and payable without notice or demand at the option of the Lender, immediately upon the occurrence of any one or more of the following events:

1. Any default for thirty (30) days in the payment of any installment as above provided.
2. After default for thirty (30) days in the payment of any taxes, as above described.
3. After default for thirty (30) days after the same becomes due and without notice of demand, in the payment of any installment of any assessment for local improvements heretofore or hereafter laid, which is or may become payable in annual installments and which has affected, now affects or hereafter may affect, the premises.
4. Upon the actual or threatened demolition or removal of any building or buildings, or any part or portion thereof, or any fixture or article of personal property covered by the Security Agreement, unless the Lender has expressly consented in writing to such demolition or removal.
5. Upon the failure of any owner of the premises to comply with all statutes, orders, and requirements of the federal, state, and municipal governments affecting the property described in the Security Agreement, or any departments or bureaus thereof having jurisdiction, within three (3) months after the same become effective.
6. If the undersigned or their assignees are declared bankrupt in a Federal Court proceeding and a trustee is appointed to take charge of the property securing this note.
7. If a receiver is appointed by the undersigned or their assignees for the benefit of creditors, or by creditors to take charge of the property securing the Note.
8. If the undersigned sells, transfers, or disposes of said property, by deed, contract, option or otherwise.
9. Failure, inability or unwillingness of the Borrower to carry out or comply with, or cause to be carried out or complied with, the specific undertakings described in the Application Materials as approved by the Lender.
10. Any representation or warranty made by the Borrower herein, in the Application Materials or in any certificate or report furnished by or on behalf of the Borrower about any of the foregoing proving to be false, incomplete or incorrect in any material respect.
11. Violation of the Regulations or RLF Plan in any material respect, by officers, directors, employees or agents of the Borrower, and such violation shall continue

for a period of 60 days without being rectified to the satisfaction of the Lender after written notice specifying such default and requiring the same to be rectified has been given by the Lender to the Borrower.

G. Miscellaneous

1. Every right or remedy herein conferred upon or reserved to the holder of the Note shall be cumulative and shall be in addition to every other right and remedy now or hereafter existing at law or in equity, or by statute or regulation.

2. The invalidity of any one or more phrases, clauses, sentences, paragraphs or provisions of this Agreement shall not affect the remaining portions hereof.

3. This Agreement may be amended only in a written instrument executed by both Borrower and Lender, which amendment has been submitted in advance to the review and approval by the Government and approved in advance by the Government.

4. This Agreement is entered into between the parties concerning a zero interest loan from the RLF Fund, which Lender holds and administers pursuant to § 313 of the Rural Electrification Act of 1936, as amended, to promote rural economic development and job creation projects. Accordingly, so long as Lender shall, under the terms of this Agreement, be the holder of the Note, then this Agreement and the Note shall each be governed by and construed in accordance with the laws of the United States and the regulations that govern § 313 of the Rural Electrification Act of 1936, as amended.

DISCLAIMER OF ORAL AGREEMENTS: NOTICE TO BORROWER

A credit agreement must be in writing to be enforceable under Nebraska law. To protect Borrower and the Lender from any misunderstandings or disappointments, any contract, promise, undertaking, or offer to forebear repayment of money or to make any other financial accommodation in connection with this loan of money or grant or extension of credit, or any amendment of, cancellation of, waiver of, or substitution for any or all of the terms or provisions of any instrument or document executed in connection with this loan of money or grant or extension of credit, must be in writing to be effective.

IN WITNESS WHEREOF, Borrower has caused this Agreement to be signed and Lender has caused this Agreement to be duly executed on its behalf, all as of the day and year first written above.

Whilee Rentals, L.L.C., a Nebraska limited liability company

By: _____
Jeffrey E. Whiting, Manager

City of Gothenburg,

By: _____
Will Rahjes, Mayor