

# ***New Hope Community Development Corporation***

BOARD OF DIRECTORS

**Lisa A. Baker, Executive Director**

147 W. Main Street  
Woodland, CA 95695

Woodland: (530) 662-5428  
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Marlene Ganes  
Michael H. McGowan  
Matt Rexroad  
Helen M. Thomson  
Steven Tupolo  
Mariko Yamada

DATE: September 4, 2008  
TO: New Hope CDC Board of Directors  
FROM: Lisa A. Baker, Executive Director  
SUBJECT: **Ratify Limited Partnership Agreement of Rochdale Grange, L.P. between Neighborhood Partners, LLC and New Hope Community Development Corporation.**

**RECOMMENDED ACTIONS:**

That the Board of Directors:

1. Ratify the Limited Partnership Agreement of Rochdale Grange, L.P, between Neighborhood Partners, LLC and New Hope Community Development Corporation.

**BACKGROUND / DISCUSSION:**

Neighborhood Partners (NP) is a for-profit development company that produces affordable tax credit housing developments. New Hope CDC has recently collaborated with NP on two (2) tax credit projects in the City of Davis: Eleanor Roosevelt and César Chavez Plaza.

Rochdale Grange is a new project with a set-aside of units for the disabled. The project is located at on Heritage Parkway in the Spring Lake subdivision of Woodland. Rents are estimated to be set at 35% of annual median income and 50% of annual median income (AMI), in order to make units affordable to persons who receive Social Security or Supplemental Security Income (SSI) and to working households. The project proposes 44 units, of which 65% would be set at 50% of AMI and the balance at the 35% of AMI.

On September 25, 2007, the Board authorized the Executive Director to enter into a General Partners Agreement for the development of Rochdale Grange and authorized New Hope to make application for MHP funds. At this time, Neighborhood Partners has secured the land and the MHP funds through the Proposition 1C infill funds. As a result, New Hope CDC was asked to enter into the Limited Partnership Agreement to continue to develop the Rochdale Grange project. The Executive Director executed the agreement and asks the Board to ratify the execution.

**FISCAL IMPACT:**

None at this time.

**CONCLUSION:**

Staff has reviewed the requirements and recommends that the Board ratify the execution of the agreement..

Attachment:     Limited Partnership Agreement

AGREEMENT OF LIMITED PARTNERSHIP

OF

ROCHDALE GRANGE, L.P.

by and between

New Hope Community Development Corporation

and

Neighborhood Partners, LLC

as the General Partners,

and

Neighborhood Partners, LLC  
as the initial Limited Partner,

dated

July 29, 2008

THIS AGREEMENT OF LIMITED PARTNERSHIP (the "Agreement") is dated as of July 29, 2008, by and between New Hope Community Development Corporation, a California nonprofit public benefit corporation ("NHCD"), and Neighborhood Partners, LLC, a California limited liability company ("Neighborhood Partners"), as the general partners (NHCD and Neighborhood Partners may be referred to collectively as the "General Partner"), and Neighborhood Partners, as the initial limited partner (Neighborhood Partners, when acting in its capacity as a limited partner, shall be referred to as the "Limited Partner").

## RECITALS

WHEREAS, the General Partner and the Limited Partner (collectively, the "Partners") desire to form a partnership in the name of Rochdale Grange, L.P. (the "Partnership");

WHEREAS, a Certificate of Limited Partnership was filed with the California Secretary of State on July 23, 2008; and

WHEREAS, the parties hereto desire to enter into this Agreement to cause, among other things, (i) the formation of the Partnership and (ii) the contribution of capital by the Partners to the Partnership.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

## ARTICLE 1 GENERAL

1.1 Formation of the Partnership. The Partnership shall be formed as a limited partnership under the laws of California pursuant to this Agreement. The name of the Partnership shall be "Rochdale Grange, L.P."

1.2 Principal Office; Agent For Service of Process. The address of the Partnership's principal executive office shall be 2745 Portage Bay East, Davis, California 95616 or such other address as the General Partner may designate from time to time by a certificate of amendment filed in the office of the California Secretary of State. The Partnership's agent for service of process shall be Luke Watkins, 2745 Portage Bay East, Davis, California 95616.

1.3 Term. The Partnership shall continue in full force and effect until the dissolution and termination of the Partnership pursuant to Section 7.1 hereof.

1.4 Purpose. The specific business and purpose of the Partnership is the provision of low income housing through the acquisition, construction, rehabilitation, ownership, maintenance, and operation of the land and improvements, consisting of 44 units of multi-family housing including one (1) manager's unit, located in Woodland, California (the "Development").

ARTICLE 2  
CAPITAL

2.1 Capital Contributions. The contributions to the capital of the Partnership to be made by each of the Partners are set forth in Exhibit A, attached hereto and incorporated by reference herein.

2.2 Capital Accounts; No Interest; Withdrawal. No Partner shall have the right to demand a return of its capital contribution, except as otherwise provided in this Agreement. No Partner shall have priority over any other Partner, either as to return of its capital contribution or as to profits, losses or distributions, except as otherwise specifically provided herein. Moreover, no Partner shall be personally liable for the return of the capital contribution of any other Partner, or any portion thereof, except as provided by law, it being expressly understood that any such return shall be made solely from assets of the Partnership; nor shall any Partner be required to pay the Partnership or any other Partner any deficit in its or any other Partner's capital account upon dissolution or otherwise, it being understood and agreed that any deficit in any capital account shall not be treated as an asset of the Partnership. No interest shall be paid on any capital account or capital contribution. No Partner shall have the right to demand or receive property other than cash for its interest in the Partnership (an "Interest"). Each of the Partners does hereby agree to, and does hereby waive, any right such Partner may otherwise have to cause any asset of the Partnership to be partitioned or to file a complaint or institute any proceeding at law or in equity seeking to have any such asset partitioned.

2.3 Liability of Limited Partner. The Limited Partner shall not be liable for any debts, liabilities, contracts, or obligations of the Partnership, except as provided by law. The Limited Partner shall be liable only to make payments of its capital contributions as and when due under this Agreement.

ARTICLE 3  
MANAGEMENT

3.1 Exercise of Management. The overall management and control of the business, assets and affairs of the Partnership shall be vested in the General Partner and, subject to the specific limitations and restrictions set forth in this Article 3, the General Partner, in extension of and not in limitation of the powers given by law, shall have full, exclusive, and complete charge of the management of the business of the Partnership in accordance with its purpose stated in Section 1.4 hereof. The Limited Partner shall not take part in the management or control of the business of the Partnership or have authority to bind the Partnership, provided that the Limited Partner may exercise any and all of the rights granted to it under this Agreement. If there is more than one general partner, the obligations of the General Partner under this Agreement shall be the joint and several obligation of each general partner.

3.2 Authorization to the General Partner. Without in any way limiting the right or authority of the General Partner hereunder, the General Partner is specifically authorized to execute all documents required by any governmental authority having jurisdiction over the Partnership or the Development (an "Authority") or any lender to the Partnership (a "Lender") in

connection with the leasing, acquisition, construction, rehabilitation or financing of the Development or any portion thereof, provided that no person, including, but not limited to, the General Partner, any party holding an Interest, or any person or entity which is either a "related party" (as such term is defined in the Code) thereto or is an "Affiliate" thereof, shall have any personal liability for the payment of all or any part of any such financing. If there is more than one general partner, each must sign in order to bind the Partnership. For purposes of this Agreement, the term "Affiliate" shall mean any person or entity that is controlled by, controlling, or under common control with the specified Partner.

3.3 Loans. The General Partner, on behalf of the Partnership, shall have the authority to borrow funds required for the Development, subject to the terms of this Agreement and applicable rules, regulations, and directives of any Authority. To the extent borrowings are permitted, they may be made from any source, including any Partner or an Affiliate thereof. Any loan by a Partner or its Affiliate after the date hereof shall be a "Voluntary Loan," shall bear interest as provided in the note or agreement that governs the terms of the Voluntary Loan, and shall be repayable as set forth in Section 5.2 hereof (to the extent permitted by each Authority), provided that any Voluntary Loan shall be made solely for the benefit of the Partnership.

3.4 Duties and Authority of General Partner. The General Partner shall devote to the Partnership only such time as may be necessary for the proper performance of the duties of the General Partner. The General Partner shall at all times exercise its responsibilities as General Partner in a fiduciary manner.

3.5 Restrictions on Authority. Notwithstanding any other provisions of this Agreement:

A. The General Partner shall have no authority to perform any act in violation of any applicable laws or regulations, or any agreement between the Partnership and any Authority or any Lender, or to take any action which under the laws of California or this Agreement requires the approval, ratification or consent of some or all of the Partners without first obtaining such approval, ratification or consent, as the case may be. The General Partner shall, at no time, do or cause to be done any act directly or indirectly affecting the Development which violates any requirements of any Authority or any Lender.

B. The General Partner shall not have authority to commit the Partnership to any of the following acts, except with the approval of the Limited Partner:

i. acquire any real or personal property (tangible or intangible) other than the Development or any personal property intended for use in connection therewith;

ii. become personally liable on or in respect of, or guarantee, any indebtedness for borrowed money of the Partnership;

iii. pay any salary, fees or other compensation to a General Partner or any Affiliate thereof, except as expressly authorized by this Agreement;

iv. sell all or any portion of the Development;

v. admit additional Partners to the Partnership except in accordance with the express terms hereof;

vi. cause or permit the Partnership to make loans to any General Partner or any Affiliate thereof; or

vii. cause or permit the Partnership to take or omit or suffer any action that would result in a reduction or disallowance of any tax credits anticipated to be recognized by the Partnership.

3.6 Activities of Partners. It is understood that the General Partner is and will be engaged in other activities and occupations unrelated to the Partnership. Any Partner may engage in and have an interest in other business ventures of every nature and description, independently or with others, including, but not limited to, the ownership, financing, leasing, operating, construction, rehabilitation, renovation, improvement, management, and development of real property whether or not such real property is directly or indirectly in competition with the Development, provided that nothing herein shall be construed to relieve the General Partner of any of its fiduciary obligations with respect to the Development. Neither the Partnership nor any other Partner shall have any rights by virtue of this Agreement in and to such independent ventures or the income or profits derived therefrom, regardless of the location of such real property and whether or not such venture was presented to such Partner as a direct or indirect result of its connection with the Partnership or the Development.

3.7 Dealing with Affiliates. Subject to the restrictions contained in this Agreement, the General Partner may, for, in the name and on behalf of, the Partnership, enter into agreements or contracts for performance of services for the Partnership as an independent contractor with a Partner or an Affiliate thereof and the General Partner may obligate the Partnership to pay compensation for and on account of any such services, provided that unless the terms of such compensation and/or services are specified in this Agreement, such compensation and services shall be on terms not less favorable to the Partnership than if such compensation and services were paid to and/or performed by a person who was not a Partner or an Affiliate thereof.

3.8 Indemnification and Liability of the General Partner.

A. To the maximum extent permitted by law, the Partnership, its receiver or its trustee, shall indemnify, defend, protect and hold harmless the General Partner and its Affiliates from and against any liability, loss, cost, expense or damage incurred by them by reason of any act performed or omitted to be performed by them and while acting within the scope of authority of the General Partner, including costs and reasonable attorneys' fees (which attorneys' fees may be paid as incurred) and any amount expended in the settlement of any claim of liability, loss, cost, expense or damage, provided that (i) if such liability, loss, cost, expense or damage arises out of any action or inaction of any Affiliate, such action or inaction must have occurred while such party was engaged in activities which could have been engaged in by a General Partner in its capacity as such; (ii) if such liability, loss, cost, expense or damage arises

out of any action or inaction of a General Partner or any Affiliates, the General Partner or its Affiliates must have determined, in good faith, that (a) such course of conduct was in the best interests of the Partnership, (b) the General Partner or its Affiliates (acting within the scope of the General Partner's authority) were acting on behalf of or performing services for the Partnership, and (c) such course of conduct did not constitute fraud, gross negligence or misconduct by the General Partner or its Affiliates; and (iii) any such indemnification shall be recoverable only from the assets of the Partnership (including without limitation the proceeds of any insurance policies), and not from the assets of any Partner. Nothing contained herein shall constitute a waiver by any limited partner of any right which it may have against any party under Federal or state securities laws nor shall a limited partner be permitted to contract away the fiduciary duty owed to it by the General Partner or its Affiliates under common law.

B. Notwithstanding the provisions of Section 3.8.A. hereof, the General Partner and its Affiliates shall not be indemnified or held harmless pursuant to Section 3.8.A. hereof from any liability, loss, expense, or damage incurred by them in connection with, and shall indemnify and hold harmless the Partnership and the other Partners from and against any liability, loss, or damage incurred by them by reason of, fraud or intentional misconduct.

#### ARTICLE 4 BOOKS AND RECORDS

4.1 Bank Accounts. The bank accounts of the Partnership shall be maintained in such banking institutions authorized to do business in California or such other states as permitted by each Authority and as the General Partner shall determine, and withdrawals shall be made on such signature or signatures as the General Partner shall determine. The Partnership's funds shall not be commingled with the funds of any other person and shall not be used except for the business of the Partnership. All deposits (including security deposits and other funds required to be placed in escrow and other funds not needed in the operation of the Partnership's business) shall be deposited, to the extent permitted by each Authority, in interest-bearing accounts or invested in obligations of or guaranteed by the United States, any state thereof, or any agency, municipality, or other political subdivision of any of the foregoing, commercial paper (investment grade), certificates of deposit, and time deposits in commercial banks with capital in excess of Fifty Million Dollars (\$50,000,000) and in mutual (money market) funds investing in any or all of the foregoing.

4.2 Books of Account; Fiscal Year. Complete and accurate books of account, in which shall be entered, fully and accurately, each and every transaction of the Partnership, shall be kept or caused to be kept by the General Partner. The books shall be kept on an accrual basis of accounting, and the fiscal year of the Partnership shall be the calendar year.

4.3 Tax Returns and Tax Treatment. The General Partner shall file on behalf of the Partnership a Federal Partnership Return and such other tax returns and other documents from time to time as may be required by the Federal government or by any state or any subdivision thereof having jurisdiction over the Partnership within the time prescribed by law for such filing. The General Partner shall send a copy of Schedule K-1 or any successor or replacement form



thereof, and any such tax return, to each Partner within sixty (60) days after the expiration of each fiscal year. The General Partner shall act as tax matters partner for federal and state purposes.

## ARTICLE 5 ALLOCATIONS AND DISTRIBUTIONS

5.1 Allocations of Profits and Losses. For tax and accounting purposes, profits and losses of the Partnership for each fiscal year shall be allocated to the Partners in accord with their respective percentage interests as set forth in Exhibit A attached hereto.

5.2 Distribution and Application of Cash Proceeds. Except as otherwise provided by this Agreement or required by law (including all applicable rules, directives, and regulations of each Authority), cash distributions shall be made to the Partners in the following priorities:

A. To the Partners, in the amount or amounts equal to the unpaid balance of any Voluntary Loan made by them; and

B. The balance, to the Partners in accordance with their respective percentage interests as set forth in Exhibit A attached hereto.

## ARTICLE 6 ASSIGNMENT OF INTERESTS

6.1 Assignment of Limited Partner Interests. The Limited Partner shall have the right to make an assignment of its Interests only with the consent of the General Partner. Notwithstanding the foregoing, with the consent of the General Partner the Limited Partner may pledge its interest to a construction lender to secure a loan to the Partnership in order to fund the construction of the Development. Furthermore, if the Limited Partner shall assign and transfer its Interests to any person with the consent of the General Partner, such person shall not be admitted as a Partner unless the General Partner consents to the admission of such person, and such person assumes the obligations of the Limited Partner.

6.2 Assignment of General Partner Interests or Withdrawal. The General Partner may not withdraw from the Partnership or assign, pledge, or encumber all or any part of its Interest without the prior written consent of each Authority and each Lender. The consent of the Limited Partner shall not be required. In the event of a withdrawal of a General Partner or the assignment, pledge or encumbrance of any part of its Interest in violation of this Section 6.2, the Interest of the General Partner (a "Withdrawing General Partner") who so withdrew, assigned, pledged or encumbered any part of its Interest shall immediately and automatically terminate on the effective date of such withdrawal (or the effective date of such assignment, pledge or encumbrance) and such Withdrawing General Partner shall have no further right to participate in the management or operation of the Partnership or to receive any future allocations of profits and losses, any distributions from the Partnership or any other funds or assets of the Partnership, nor

shall it be entitled to receive or to be paid by the Partnership any further payments of fees (except fees which have been earned but are unpaid). Notwithstanding such withdrawal, assignment, pledge or encumbrance, such Withdrawing General Partner shall remain liable to the Partnership and the other Partners for all obligations theretofore incurred by it under this Agreement, which may arise upon such withdrawal, assignment, pledge or encumbrance.

6.3 Effect of Withdrawal; Election to Continue Business. Upon the withdrawal of a General Partner, (A) a remaining General Partner, if any, or, if there be no remaining General Partner, the Withdrawing General Partner or its legal representative shall promptly notify the other Partners of such withdrawal (the "Withdrawal Notice"), (B) whether or not the Withdrawal Notice shall have been sent as provided herein, the Limited Partner shall have the right to designate a successor general partner to serve in place of the Withdrawing General Partner with the approval of each Authority and each Lender, if such approval is required, and (C) the Partnership shall be dissolved and terminated unless the then General Partner or all of the then General Partners elect to continue the business of the Partnership. Upon the withdrawal of a General Partner, if there is then no other General Partner, or, if there is then one or more other General Partners, but the remaining General Partner or General Partners do not elect to continue the business of the Partnership pursuant to this Section 6.3, the Limited Partner may elect within one hundred twenty (120) days thereafter to form a new partnership on substantially identical terms to those of this Agreement to carry on the business of the Partnership.

## ARTICLE 7 DISSOLUTION

7.1 Events Which Cause a Dissolution. The Partnership shall continue in full force and effect until December 31, 2068, except that the Partnership shall be dissolved prior thereto upon the happening of any of the following events:

- A. An election to dissolve the Partnership made in writing by the General Partner, with the prior written consent of the Limited Partner;
- B. The withdrawal of a General Partner if the Partnership is not continued in accordance with Section 6.3 hereof;
- C. Any event which shall make it unlawful for the existence of the Partnership to be continued; or
- D. The sale or other disposition of all or substantially all of the assets of the Partnership.

7.2 Actions of Liquidating Agent Upon Dissolution. Upon the dissolution of the Partnership, the Partnership shall be liquidated in accordance with this Section 7.2 and applicable laws of the State of California. The liquidation shall be conducted and supervised by the General Partner or, if there is no remaining general partner, by a person who shall be designated for such purpose by the Limited Partner (the General Partner, or such person so designated, being

hereinafter referred to as the "Liquidating Agent"). The Liquidating Agent shall have all of the rights in connection with the liquidation and termination of the Partnership that a general partner would have with respect to the assets and liabilities of the Partnership during the term of the Partnership, and the Liquidating Agent is hereby expressly authorized and empowered to effectuate the liquidation and termination of the Partnership and the transfer of any assets and liabilities of the Partnership. The Liquidating Agent shall, to the extent feasible, liquidate the assets of the Partnership as promptly as shall be practicable. To the extent the proceeds are sufficient therefor, as the Liquidating Agent shall deem appropriate, the proceeds of such liquidation shall be applied to pay the liabilities of the Partnership, and the balance of such proceeds shall be distributed by the Liquidating Agent to the Partners pro rata in accordance with their respective capital accounts, as such accounts are determined after all adjustments are made as required herein to such accounts for the taxable year of the Partnership during which the liquidation occurs. If, in the sole discretion of the Liquidating Agent, it shall determine that it is not feasible to liquidate all or part of the assets of the Partnership or that an immediate sale of all or part of such assets would cause an undue loss to the Partners, the Liquidating Agent shall cause the fair market value of the assets not so liquidated to be determined by independent appraisal. Such assets shall then be distributed by the Liquidating Agent in such manner as to satisfy the provisions of the second immediately preceding sentence. Any distribution of assets in kind shall be distributed on the basis of the fair market value thereof and any Partner entitled to any interest in such assets shall receive such interest therein as a tenant-in-common with all other Partners so entitled.

## ARTICLE 8 MISCELLANEOUS

8.1 Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed entirely therein.

8.2 Separability of Provisions. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein (A) are determined to be invalid or contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, or (B) would cause any limited partner to be bound by the obligations of the Partnership (other than under the rules, directives and regulations of any Authority) under the laws of the State as the same may now or hereafter exist, such provision or provisions shall be deemed void and of no effect.

8.3 Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements between and among them respecting the subject matter of this Agreement.

8.4 Agreement Binding. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives and permitted successors and assigns of the parties hereto.

8.5 Parties in Interest. Nothing herein shall be construed to be to the benefit of or enforceable by any third party including, but not limited to, any creditor of the Partnership.

8.6 Further Assurances. The Partners will execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purposes of this Agreement.

8.7 Address and Notice. All notices, demands, solicitations of consent or approval, and other communications hereunder required or permitted shall be in writing and shall be deemed to have been given when personally delivered or five (5) days after the date when deposited in the United States mail and sent postage prepaid by registered or certified mail, return receipt requested, addressed as follows: if intended for (A) the Partnership, to its principal place of business, or (B) the Partners, to 430 F. Street, Davis, CA 95616, or to such other address which any Partner shall have given to the Partnership for such purpose by notice hereunder, provided that copies of all such items (which shall not constitute notice hereunder) shall also be sent to Goldfarb & Lipman LLP, 1300 Clay Street, 9<sup>th</sup> Floor, Oakland, CA 94612, Attention: John T. Haygood.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been duly executed on the day and year first above written.

GENERAL PARTNER:

New Hope Community Development Corporation, a  
California nonprofit public benefit corporation

By:   
\_\_\_\_\_  
Lisa A. Baker, Executive Director

Neighborhood Partners, LLC, a California limited  
liability company

By:   
\_\_\_\_\_  
Luke Watkins, member

INITIAL LIMITED PARTNER:

Neighborhood Partners, LLC, a California limited  
liability company

By:   
\_\_\_\_\_  
Luke Watkins, member

EXHIBIT A

Schedule of Capital Contributions and Percentage Interests of Partners

<u>General Partner</u>	<u>Capital</u>	<u>Percentage Interest</u>
Neighborhood Partners, LLC	\$49.50	49.50%
New Hope Community Development Corporation	\$49.50	49.50%
<u>Limited Partner</u>		
Neighborhood Partners, LLC	\$ 1.00	1%