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# 2019 Federal Low Income Housing Tax Credit Program

## Application For Reservation

### Deadline for Submission

#### 9% Competitive Credits

Applications Must Be Received At VHDA No Later Than **2:00 PM**  
Richmond, VA Time On **March 14, 2019**

#### Tax Exempt Bonds

Applications should be received at VHDA at least one month before the bonds are *priced* (if bonds issued by VHDA), or 75 days before the bonds are *issued* (if bonds are not issued by VHDA)



Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220-6500

## INSTRUCTIONS FOR THE VIRGINIA 2019 LIHTC APPLICATION FOR RESERVATION

This application was prepared using Excel, Microsoft Office 2016. Please note that using the active Excel workbook does not eliminate the need to submit the required PDF of the signed hardcopy of the application and related documentation. A more detailed explanation of application submission requirements is provided below and in the Application Manual.

**An electronic copy of your completed application is a mandatory submission item.**

### Applications For 9% Competitive Credits

Applicants should submit an electronic copy of the application package prior to the application deadline, which is **2:00 PM** Richmond Virginia time on **March 14, 2019**. Failure to submit an electronic copy of the application by the deadline will cause the application to be disqualified.

#### **Please Note:**

**Applicants should submit all application materials in electronic format only.**

**There should be distinct files which should include the following:**

- 1. Application For Reservation – the active Microsoft Excel workbook**
- 2. A PDF file which includes the following:**
  - Application For Reservation – Signed version of hardcopy
  - All application attachments (i.e. tab documents, excluding market study and plans & specs)
- 3. Market Study – PDF or Microsoft Word format**
- 4. Plans - PDF or other readable electronic format**
- 5. Specifications - PDF or other readable electronic format (may be combined into the same file as the plans if necessary)**
- 6. Unit-By-Unit work write up (rehab only) - PDF or other readable electronic format**

#### **IMPORTANT:**

**VHDA can accept files via our work center site Procorem or on flash/thumb drives. Contact Hope Rutter for access to Procorem.**

**Do not submit any application materials to any email address unless specifically requested by the VHDA LIHTC Allocation Department staff.**

#### Disclaimer:

VHDA assumes no responsibility for any problems incurred in using this spreadsheet or for the accuracy of calculations. Check your application for correctness and completeness before submitting the application to VHDA.

#### Entering Data:

Enter numbers or text as appropriate in the blank spaces highlighted in yellow. Cells have been formatted as appropriate for the data expected. All other cells are protected and will not allow changes.

#### **Please Note:**

- ▶ **VERY IMPORTANT! : Do not** use the copy/cut/paste functions within this document. Pasting fields will corrupt the application and may result in penalties. You may use links to other cells or other documents but do not paste data from one document or field to another.
- ▶ Some fields provide a dropdown of options to select from, indicated by a down arrow that appears when the cell is selected. Click on the arrow to select a value within the dropdown for these fields.
- ▶ The spreadsheet contains multiple error checks to assist in identifying potential mistakes in the application. These may appear as data is entered but are dependent on values entered later in the application. Do not be concerned with these messages until all data within the application has been entered.
- ▶ Also note that some cells contain error messages such as “#DIV/0!” as you begin. These warnings will disappear as the numbers necessary for the calculation are entered.

#### Assistance:

If you have any questions, please contact the VHDA LIHTC Allocation Department. Please note that we cannot release the copy protection password.

#### **VHDA LIHTC Allocation Staff Contact Information**

<b>Name</b>	<b>Email</b>	<b>Phone Number</b>
JD Bondurant	<a href="mailto:john david.bondurant@vhda.com">john david.bondurant@vhda.com</a>	(804) 343-5725
Hope Coleman Rutter	<a href="mailto:hope.rutter@vhda.com">hope.rutter@vhda.com</a>	(804) 343-5574
Sheila Stone	<a href="mailto:sheila.stone@vhda.com">sheila.stone@vhda.com</a>	(804) 343-5582
Stephanie Flanders	<a href="mailto:stephanie.flanders@vhda.com">stephanie.flanders@vhda.com</a>	(804) 343-5939
Pamela Freeth	<a href="mailto:pamela.freeth@vhda.com">pamela.freeth@vhda.com</a>	(804) 343-5563
Jovan Burton	<a href="mailto:Jovan.burton@vhda.com">Jovan.burton@vhda.com</a>	(804) 343-5518



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## 2019 Low-Income Housing Tax Credit Application For Reservation

Please indicate if the following items are included with your application by putting an 'X' in the appropriate boxes. Your assistance in organizing the submission in the following order, and actually using tabs to mark them as shown, will facilitate review of your application. Please note that all mandatory items must be included for the application to be processed. The inclusion of other items may increase the number of points for which you are eligible under VHDA's point system of ranking applications, and may assist VHDA in its determination of the appropriate amount of credits that may be reserved for the development.

- \$1,000 Application Fee **(MANDATORY)**
- Electronic Copy of the Microsoft Excel Based Application **(MANDATORY)**
- Scanned Copy of the **Signed** Tax Credit Application with Attachments (excluding market study and plans & specifications) **(MANDATORY)**
- Electronic Copy of the Market Study **(MANDATORY - Application will be disqualified if study is not submitted with application)**
- Electronic Copy of the Plans **(MANDATORY)**
- Electronic Copy of the Specifications **(MANDATORY)**
- Electronic Copy of the Physical Needs Assessment **(MANDATORY if rehab)**
- Electronic Copy of Appraisal **(MANDATORY if acquisition credits requested)**
- Electronic Copy of Environmental Site Assessment (Phase I) **(MANDATORY if 4% credits requested)**
- Tab A: Partnership or Operating Agreement, including chart of ownership structure with percentage of interests **(MANDATORY)**
- Tab B: Virginia State Corporation Commission Certification **(MANDATORY)**
- Tab C: Principal's Previous Participation Certification **(MANDATORY)**
- Tab D: List of LIHTC Developments (Schedule A) **(MANDATORY)**
- Tab E: Site Control Documentation & Most Recent Real Estate Tax Assessment **(MANDATORY)**
- Tab F: Architect's Certification and RESNET Rater Certification **(MANDATORY)**
- Tab G: Zoning Certification Letter **(MANDATORY)**
- Tab H: Attorney's Opinion **(MANDATORY)**
- Tab I: Nonprofit Questionnaire **(MANDATORY for points or pool)**
- The following documents need not be submitted unless requested by VHDA:
- Nonprofit Articles of Incorporation
  - IRS Documentation of Nonprofit Status
  - Joint Venture Agreement (if applicable)
  - For-profit Consulting Agreement (if applicable)
- Tab J: Relocation Plan **(MANDATORY, if tenants are displaced)**
- Tab K: Documentation of Development Location:
- K.1 Revitalization Area Certification
  - K.2 Location Map
  - K.3 Surveyor's Certification of Proximity To Public Transportation
- Tab L: PHA / Section 8 Notification Letter
- Tab M: Locality CEO Response Letter
- Tab N: Homeownership Plan
- Tab O: Plan of Development Certification Letter
- Tab P: Developer Experience documentation and Partnership agreements
- Tab Q: Documentation of Rental Assistance, Tax Abatement and/or existing RD or HUD Property
- Tab R: Documentation of Operating Budget and Utility Allowances
- Tab S: Supportive Housing Certification
- Tab T: Funding Documentation
- Tab U: Documentation to Request Exception to Restriction-Pools With Little/No Increase in Rent Burdened Population
- Tab V: Nonprofit or LHA Purchase Option or Right of First Refusal
- Tab W: (Reserved)
- Tab X: Marketing Plan for units meeting accessibility requirements of HUD section 504

2019 Low-Income Housing Tax Credit Application For Reservation

VHDA TRACKING NUMBER

2019-TEB-09

A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT

Application Date: 9/30/2019

1. Development Name: Palmers Creek
2. Address (line 1): 8934 Jefferson Davis Highway  
 Address (line 2): \_\_\_\_\_  
 City: Fredericksburg State: VA Zip: 22407
3. If complete address is not available, provide longitude and latitude coordinates (x,y) from a location on site that your surveyor deems appropriate. Longitude: 00.00000 Latitude: 00.00000  
 (Only necessary if street address or street intersections are not available.)
4. The Circuit Court Clerk's office in which the deed to the development is or will be recorded:  
 City/County of Spotsylvania County
5. The site overlaps one or more jurisdictional boundaries..... FALSE  
 If true, what other City/County is the site located in besides response to #4?..... \_\_\_\_\_
6. Development is located in the census tract of: 203.06
7. Development is located in a **Qualified Census Tract**..... FALSE
8. Development is located in a **Difficult Development Area**..... FALSE
9. Development is located in a **Revitalization Area based on QCT** ..... FALSE
10. Development is located in a **Revitalization Area designated by resolution** ..... FALSE
11. Development is located in an **Opportunity Zone** (with a binding commitment for funding)..... FALSE

(If 9, 10 or 11 are True, **Action:** Provide required form in **TAB K1**)

12. Development is located in a census tract with a poverty rate of.....	3%	10%	12%
	TRUE	FALSE	FALSE

Enter only Numeric Values below:

13. Congressional District: 7
- Planning District: 16
- State Senate District: 17
- State House District: 54

Click on the following link for assistance in determining the districts related to this development:

[Link to VHDA's HOME - Select Virginia LIHTC Reference Map](#)

14. **ACTION:** Provide Location Map (**TAB K2**)

15. Development Description: In the space provided below, give a brief description of the proposed development

Palmers Creek will be a 200 unit ground up development. The community will feature two residential buildings with 100 units each. Each building will be four stories with the elevator service and interior conditioned corridors. The property will also feature an approximately 6,600 SF clubhouse, business center, state of the art gym, ample entertaining areas and activity rooms.

A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT

Application Date: 9/30/2019

16. Local Needs and Support

- a. Provide the name and the address of the chief executive officer (City Manager, Town Manager, or County Administrator of the political jurisdiction in which the development will be located:

Chief Executive Officer's Name: Ed Petrovitch  
Chief Executive Officer's Title: County Administrator Phone:   
Street Address: 9104 Courthouse Road  
City: Spotsylvania State: VA Zip: 22553

Name and title of local official you have discussed this project with who could answer questions for the local CEO:

- b. If the development overlaps another jurisdiction, please fill in the following:

Chief Executive Officer's Name:   
Chief Executive Officer's Title: Phone:   
Street Address:   
City: State: Zip:

Name and title of local official you have discussed this project with who could answer questions for the local CEO:

**ACTION:** Provide Locality Notification Letter at **Tab M** if applicable.

**B. RESERVATION REQUEST INFORMATION**

1. **Requesting Credits From:**

a. If requesting 9% Credits, select credit pool:

or

b. If requesting Tax Exempt Bonds, select development type:

**For Tax Exempt Bonds, Skip Numbers 2**

2. **Type(s) of Allocation/Allocation Year**

Definitions of types:

a. **Regular Allocation** means all of the buildings in the development are expected to be placed in service this calendar year, 2019.

b. **Carryforward Allocation** means all of the buildings in the development are expected to be placed in service within two years after the end of this calendar year, 2019, but the owner will have more than 10% basis in development before the end of twelve months following allocation of credits. For those buildings, the owner requests a carryforward allocation of 2019 credits pursuant to Section 42(h)(1)(E).

3. **Select Building Allocation type:**

**Note** regarding Type = Acquisition and Rehabilitation: Even if you acquired a building this year and "placed it in service" for the purpose of the acquisition credit, you cannot receive its acquisition 8609 form until the rehab 8609 is issued for that building.

4. Is this an additional allocation for a development that has buildings not yet placed in service?

5. **Planned Combined 9% and 4% Developments**

A site plan has been submitted with this application indicating two developments on the same or contiguous site. One development relates to this 9% allocation request and the remaining development will be a 4% tax exempt bond application. (25, 35 or 45 pts)

a. Has the developer met with VHDA regarding the 4% tax exempt bond deal?

b. List below the number of units planned for each allocation request. This stated count cannot be changed or 9% Credits will be cancelled.

Total Units within 9% allocation request?

Total Units within 4% Tax Exempt allocation Request?

Total Units:

% of units in 4% Tax Exempt Allocation Request:

6. **Extended Use Restriction**

**Note:** Each recipient of an allocation of credits will be required to record an **Extended Use Agreement** as required by the IRC governing the use of the development for low-income housing for at least 30 years. Applicant waives the right to pursue a Qualified Contract.

**Must Select One:**

**Definition of selection:**

Development will be subject to the standard extended use agreement of 15 extended use period (after the mandatory 15-year compliance period.)

**C. OWNERSHIP INFORMATION**

NOTE: VHDA may allocate credits only to the tax-paying entity which owns the development at the time of the allocation. The term "Owner" herein refers to that entity. Please fill in the legal name of the owner. The ownership entity must be formed prior to submitting this application. Any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development shall be prohibited, unless the transfer is consented to by VHDA in its sole discretion. **IMPORTANT: The Owner name listed on this page must exactly match the owner name listed on the Virginia State Corporation Commission Certification.**

**1. Owner Information:**

*Must be an individual or legally formed entity.*

Owner Name: BWF Palmers Creek, LLC

Developer Name: Bonaventure Development, LLC

Contact: M/M ▶ Ms. First: Trudy MI:            Last: Sloan

Address: 2700 S Quincty St, Suite 500

City: Arlington St. ▶ VA Zip: 22206

Phone: (703) 373-0919 Ext.            Fax:           

Email address: trudy.sloan.Bonaventure.com

Federal I.D. No. 83-0761715 (If not available, obtain prior to Carryover Allocation.)

Select type of entity: ▶ Limited Liability Company Formation State: ▶ VA

Additional Contact: Please Provide Name, Email and Phone number.  
Becky Stoyer, becky.stoyer@bonaventue.com

- ACTION:** a. Provide Owner's organizational documents (e.g. Partnership agreements) **(Mandatory TAB A)**  
b. Provide Certification from Virginia State Corporation Commission **(Mandatory TAB B)**

**2. Principal(s) of the General Partner:** List names of individuals and ownership interest.

Names **	Phone	Type Ownership	% Ownership	
BWF Palmers Creek MM, LLC	(703) 373-0919	Managing Member	0.000%	needs
Bonaventure Wealth Fund, LLC	(703) 373-0919	Sole Member of MM	0.000%	needs
Dwight Dunton, III	(703) 373-0919	Manager	76.500%	
Chris Cobb	(703) 373-0913	Member	7.000%	
JP Hyland	(703) 373-0906	Member	6.500%	
Jeff Price	(816) 792-5991	Member	5.000%	
Daniel Bauman	(571) 403-9550	Member	5.000%	

The above should include 100% of the GP or LLC member interest.

\*\* These should be the names of individuals who make up the General Partnership, not simply the names of entities which may comprise those components.

**C. OWNERSHIP INFORMATION**

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- ACTION:**
- a. Provide Principals' Previous Participation Certification (**Mandatory TAB C**)
  - b. Provide a chart of ownership structure (Org Chart) and a list of all LIHTC Developments within the last 15 years. (**Mandatory at TABS A/D**)

**3. Developer Experience:** Provide evidence that the principal or principals of the controlling general partner or managing member for the proposed development have developed:

- a. as a controlling general partner or managing member, (i) at least three tax credit developments that contain at least three times the number of housing units in the proposed development or (ii) at least six tax credit developments. .... **FALSE**

**Action:** Must be included on VHDA Experienced LIHTC Developer List or provide copies of 8609s, partnership agreements and organizational charts (**Tab P**)

- b. at least three deals as principal and have at \$500,000 in liquid assets..... **FALSE**

**Action:** Must be included on the VHDA Experienced LIHTC Developer List or provide Audited Financial Statements and copies of 8609s (**Tab P**)

- c. The development's principal(s), as a group or individually, have developed as controlling general partner or managing member, at least one tax credit development that contains at least the same number of units of this proposed development (can include Market units). .... **TRUE**

**Action:** Must provide copies of 8609s and partnership agreements (**Tab P**)

D. SITE CONTROL

**NOTE:** Site control by the Owner identified herein is a mandatory precondition of review of this application. Documentary evidence in the form of either a deed, option, purchase contract or lease for a term longer than the period of time the property will be subject to occupancy restrictions must be included herewith. (For 9% Competitive Credits - An option or contract must extend beyond the application deadline by a minimum of four months.)

**Warning:** Site control by an entity other than the Owner, even if it is a closely related party, is not sufficient. Anticipated future transfers to the Owner are not sufficient. The Owner, as identified previously, must have site control at the time this Application is submitted.

**NOTE:** If the Owner receives a reservation of credits, the property must be titled in the name of or leased by (pursuant to a long-term lease) the Owner before the allocation of credits is made.

Contact VHDA before submitting this application if there are any questions about this requirement.

1. Type of Site Control by Owner:

Applicant controls site by (select one and provide documentation - **Mandatory TAB E**)

Select Type:  Purchase Contract

Expiration Date: 2/28/2020

In the Option or Purchase contract - Any contract for the acquisition of a site with an existing residential property may not require an empty building as a condition of such contract, unless relocation assistance is provided to displaced households, if any, at such level required by VHDA. See QAP for further details.

FALSE ..... There is more than one site for development and more than one form of site control.

(If **True**, provide documentation for each site specifying number of existing buildings on the site (if any), type of control of each site, and applicable expiration date of stated site control. A site control document is required for each site (**Tab E**.)

2. Timing of Acquisition by Owner:

Only one of the following statement should be True.

a.  FALSE ..... Owner already controls site by either deed or long-term lease.

b.  TRUE ..... Owner is to acquire property by deed (or lease for period no shorter than period property will be subject to occupancy restrictions) no later than..... 2/28/2020 .

c.  FALSE ..... There is more than one site for development and more than one expected date of acquisition by Owner.

(If c is **True**, provide documentation for each site specifying number of existing buildings on the site, if any, and expected date of acquisition of each site by Owner (**Tab E**.)



**D. SITE CONTROL**

**3. Seller Information:**

Name: Palmers Creek, LLC

Address: 6308 Five Mile Centre Park, Suite 215

City: Fredericksburg St.: VA Zip: 22407

Contact Person: Donn Hart Phone: (540) 785-9090

**There is an identity of interest between the seller and the owner/applicant.....** FALSE

If above statement is **TRUE**, complete the following:

Principal(s) involved (e.g. general partners, controlling shareholders, etc.)

<u>Names</u>	<u>Phone</u>	<u>Type Ownership</u>	<u>% Ownership</u>
			0.00%
			0.00%
			0.00%
			0.00%
			0.00%
			0.00%
			0.00%

**2019 Low-Income Housing Tax Credit Application For Reservation**

**E. DEVELOPMENT TEAM INFORMATION**

Complete the following as applicable to your development team. Provide Contact and Firm Name.

- |                          |   |                           |                |
|--------------------------|---|---------------------------|----------------|
| 1. Tax Attorney:         | Conrad Garcia                                       | This is a Related Entity. | FALSE          |
| Firm Name:               | Williams Mullen                                     |                           |                |
| Address:                 | 200 South 10th Street, Suite 1600 Richmond VA 23219 |                           |                |
| Email:                   | cgarcia@williamsmullen.com                          | Phone:                    | (804) 250-6915 |
|                          |   |                           |                |
| 2. Tax Accountant:       | Ken Slater  | This is a Related Entity. | FALSE          |
| Firm Name:               | Cohn Reznik   |                           |                |
| Address:                 | 750 Wisconsin Ave, Suite 400E, Bethesda, MD 20814   |                           |                |
| Email:                   | ken.slater@cohnreznik.com                           | Phone:                    | (301) 280-3644 |
|                          |   |                           |                |
| 3. Consultant:           | Ryne Johnson  | This is a Related Entity. | FALSE          |
| Firm Name:               | Astoria, LLC  | Role:                     |                |
| Address:                 | 3400 Lady Marian Court, Midlothian, VA              |                           |                |
| Email:                   | rynjohnson@astoriallc.com                           | Phone:                    | (804) 380-0142 |
|                          |   |                           |                |
| 4. Management Entity:    | Daniel Bauman                                       | This is a Related Entity. | TRUE           |
| Firm Name:               | Bonaventure Property Management Services, LLC       |                           |                |
| Address:                 | 2700 S Quincy St, Suite 500, Arlington VA 22206     |                           |                |
| Email:                   | daniel.bauman@bonaventure.com                       | Phone:                    | (571) 403-9550 |
|                          |   |                           |                |
| 5. Contractor:           | Matt Gass   | This is a Related Entity. | TRUE           |
| Firm Name:               | Bonaventure Construction, LLC                       |                           |                |
| Address:                 | 2700 S Quincy St, Suite 500, Arlington VA 22206     |                           |                |
| Email:                   | matt.gass@bonaventure.com                           | Phone:                    | (757) 416-4466 |
|                          |   |                           |                |
| 6. Architect:            | Jeff Price  | This is a Related Entity. | TRUE           |
| Firm Name:               | J. Price Architecture, Inc                          |                           |                |
| Address:                 | 105 W Kansas St Unit C, Liberty MO 64068            |                           |                |
| Email:                   | jeff@jpricearchitecture.com                         | Phone:                    | (816) 792-5991 |
|                          |   |                           |                |
| 7. Real Estate Attorney: | Allison Domson                                      | This is a Related Entity. | FALSE          |
| Firm Name:               | Williams Mullen                                     |                           |                |
| Address:                 | 200 S 10th St, Suite 1600, Richmond, VA 23219       |                           |                |
| Email:                   | adomson@williamsmullen.com                          | Phone:                    | (804) 420-6915 |
|                          |   |                           |                |
| 8. Mortgage Banker:      | Bob Kaplan  | This is a Related Entity. | FALSE          |
| Firm Name:               | M & T Realty Capital Corporation                    |                           |                |
| Address:                 | One Light Street, 12th Floor, Baltimore, MD 21201   |                           |                |
| Email:                   | rkaplan@mtb.com                                     | Phone:                    | (410) 545-2483 |
|                          |   |                           |                |
| 9. Other:                |   | This is a Related Entity. | FALSE          |
| Firm Name:               |   | Role:                     |                |
| Address:                 |   |                           |                |
| Email:                   |   | Phone:                    |                |

F. REHAB INFORMATION

1. Acquisition Credit Information

- a. Credits are being requested for existing buildings being acquired for development..... FALSE  
*If no credits are being requested for existing buildings acquired for the development, skip this tab.*
- b. This development has received a previous allocation of credits..... FALSE  
If so, in what year did this development receive credits? .....
- c. The development is listed on the RD 515 Rehabilitation Priority List?..... FALSE
- d. This development is an existing RD or HUD S8/236 development..... FALSE  
**Action:** (If True, provide required form in **TAB Q**)

Note: If there is an identity of interest between the applicant and the seller in this proposal, and the applicant is seeking points in this category, then the applicant must either waive their rights to the developer's fee or other fees associated with acquisition, or obtain a waiver of this requirement from VHDA prior to application submission to receive these points.

- i. Applicant agrees to waive all rights to any developer's fee or other fees associated with acquisition..... FALSE
- ii. Applicant has obtained a waiver of this requirement from VHDA prior to the application submission deadline..... FALSE

2. Ten-Year Rule For Acquisition Credits

- a. All buildings satisfy the 10-year look-back rule of IRC Section 42 (d)(2)(B), including the 10% basis/ \$15,000 rehab costs (\$10,000 for Tax Exempt Bonds) per unit requirement..... FALSE
- b. All buildings qualify for an exception to the 10-year rule under IRC Section 42(d)(2)(D)(i),..... FALSE
  - i. Subsection (I)..... FALSE
  - ii. Subsection (II)..... FALSE
  - iii. Subsection (III)..... FALSE
  - iv. Subsection (IV)..... FALSE
  - v. Subsection (V)..... FALSE
- c. The 10-year rule in IRC Section 42 (d)(2)(B) for all buildings does not apply pursuant to IRC Section 42(d)(6)..... FALSE
- d. There are different circumstances for different buildings..... FALSE  
**Action:** (If True, provide an explanation for each building in Tab K)

F. REHAB INFORMATION

3. Rehabilitation Credit Information

- a. Credits are being requested for rehabilitation expenditures..... FALSE  
If no credits are being requested for rehabilitation expenditures, go on to Part 4
- b. Minimum Expenditure Requirements
  - i. All buildings in the development satisfy the rehab costs per unit requirement of IRS Section 42(e)(3)(A)(ii)..... FALSE
  - ii. All buildings in the development qualify for the IRC Section 42(e)(3)(B) exception to the 10% basis requirement (4% credit only)..... FALSE
  - iii. All buildings in the development qualify for the IRC Section 42(f)(5)(B)(ii)(II) exception..... FALSE
  - iv. There are different circumstances for different buildings..... FALSE  
**Action:** (If True, provide an explanation for each building in Tab K)

4. Request For Exception

- a. The proposed new construction development (including adaptive reuse and rehabilitation that creates additional rental space) is subject to an assessment of up to minus 20 points for being located in a pool identified by the Authority as a pool with little or no increase in rent burdened population..... FALSE
- b. Applicant seeks an exception to this restriction in accordance with one of the following provisions under 13VAC10-180-60:
  - i. Proposed development is specialized housing designed to meet special needs that cannot readily be addressed utilizing existing residential structures..... FALSE
  - ii. Proposed development is designed to serve as a replacement for housing being demolished through redevelopment..... FALSE
  - iii. Proposed development is housing that is an integral part of a neighborhood revitalization project sponsored by a local housing authority..... FALSE

**Action:** If any of 4(b) responses are true, provide documentation at Tab U.

G. NONPROFIT INVOLVEMENT

Applications for 9% Credits - Section must be completed in order to compete in the Non Profit tax credit pool.

All Applicants - Section must be completed to obtain points for nonprofit involvement.

1. Tax Credit Nonprofit Pool Applicants: To qualify for the nonprofit pool, an organization (described in IRC Section 501(c)(3) or 501(c)(4) and exempt from taxation under IRC Section 501(a)) should answer the following questions as TRUE:

- FALSE a. Be authorized to do business in Virginia.
FALSE b. Be substantially based or active in the community of the development.
FALSE c. Materially participate in the development and operation of the development throughout the compliance period...
FALSE d. Own, either directly or through a partnership or limited liability company, 100% of the general partnership or managing member interest.
FALSE e. Not be affiliated with or controlled by a for-profit organization.
FALSE f. Not have been formed for the principal purpose of competition in the Non Profit Pool.
FALSE g. Not have any staff member, officer or member of the board of directors materially participate, directly or indirectly, in the proposed development as a for profit entity.

2. All Applicants: To qualify for points under the ranking system, the nonprofit's involvement need not necessarily satisfy all of the requirements for participation in the nonprofit tax credit pool.

A. Nonprofit Involvement (All Applicants)

There is nonprofit involvement in this development..... FALSE (If false, go on to part III.)

Action: If there is nonprofit involvement, provide completed Non Profit Questionnaire (Mandatory TAB I).

B. Type of involvement:

Nonprofit meets eligibility requirement for points only, not pool..... FALSE

or

Nonprofit meets eligibility requirements for nonprofit pool and points..... FALSE

C. Identity of Nonprofit (All nonprofit applicants):

The nonprofit organization involved in this development is: [arrow] [text box]

Name: [text box] (Please fit NP name within available space)

Contact Person: [text box]

Street Address: [text box]

City: [text box] State: [arrow] [text box] Zip: [text box]

Phone: [text box] Extension: [text box] Contact Email: [text box]



**H. STRUCTURE AND UNITS INFORMATION**

**1. General Information**

a. Total number of <b>all</b> units in development	200	bedrooms	431
Total number of <b>rental</b> units in development	200	bedrooms	431
Number of low-income rental units	200	bedrooms	431
Percentage of rental units designated low-income	100.00%		
b. Number of new units:.....	200	bedrooms	431
Number of adaptive reuse units: .....	0	bedrooms	0
Number of rehab units:.....	0	bedrooms	0
c. If any, indicate number of planned exempt units (included in total of all units in development).....			0
d. Total Floor Area For The Entire Development.....		256,826.00	(Sq. ft.)
e. Unheated Floor Area (i.e. Breezeways, Balconies, Storage).....		39,760.00	(Sq. ft.)
f. Nonresidential Commercial Floor Area (Not eligible for funding).....		0.00	
g. Total Usable Residential Heated Area.....		217,066.00	(Sq. ft.)
h. Percentage of Net Rentable Square Feet Deemed To Be <b>New Rental Space</b> .....		100.00%	
i. Exact area of site in acres .....	9.525		
j. Locality has approved a final site plan or plan of development..... If <b>True</b> , Provide required documentation ( <b>TAB O</b> ).		TRUE	
k. Requirement as of 2016: Site must be properly zoned for proposed development. <b>ACTION:</b> Provide required zoning documentation ( <b>MANDATORY TAB G</b> )			
l. Development is eligible for Historic Rehab credits.....		FALSE	

**Definition:**

The structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits.

**H. STRUCTURE AND UNITS INFORMATION**

**2. UNIT MIX**

a. Specify the average size and number per unit type (as indicated in the Architect's Certification):

*Note: Average sq foot should include the prorata of common space.*

Unit Type	Average Sq Foot		# of LIHTC Units	Total Rental Units
Supportive Housing	0.00	SF	0	0
1 Story Eff - Elderly	0.00	SF	0	0
1 Story 1BR - Elderly	0.00	SF	0	0
1 Story 2BR - Elderly	0.00	SF	0	0
Eff - Elderly	0.00	SF	0	0
1BR Elderly	0.00	SF	0	0
2BR Elderly	0.00	SF	0	0
Eff - Garden	0.00	SF	0	0
1BR Garden	739.26	SF	30	30
2BR Garden	1030.78	SF	109	109
3BR Garden	1353.01	SF	61	61
4BR Garden	0.00	SF	0	0
2+ Story 2BR Townhouse	0.00	SF	0	0
2+ Story 3BR Townhouse	0.00	SF	0	0
2+ Story 4BR Townhouse	0.00	SF	0	0
			200	200

**Note:** Please be sure to enter the values in the appropriate unit category. If not, errors will occur on the self scoresheet.

**3. Structures**

- a. Number of Buildings (containing rental units)..... 2
- b. Age of Structure:..... 0 years
- c. Number of stories:..... 4

d. The development is a scattered site development..... FALSE

e. Commercial Area Intended Use: \_\_\_\_\_

f. Development consists primarily of : **(Only One Option Below Can Be True)**

- i. Low Rise Building(s) - (1-5 stories with any structural elements made of wood)..... TRUE
- ii. Mid Rise Building(s) - (5-7 stories with no structural elements made of wood)..... FALSE
- iii. High Rise Building(s) - (8 or more stories with no structural elements made of wood)..... FALSE



**H. STRUCTURE AND UNITS INFORMATION**

g. Indicate **True** for all development's structural features that apply:

i. Row House/Townhouse	<u>FALSE</u>	v. Detached Single-family	<u>FALSE</u>
ii. Garden Apartments	<u>TRUE</u>	vi. Detached Two-family	<u>FALSE</u>
iii. Slab on Grade	<u>TRUE</u>	vii. Basement	<u>FALSE</u>
iv. Crawl space	<u>FALSE</u>		

h. Development contains an elevator(s). TRUE  
 If true, # of Elevators. 2  
 Elevator Type (if known) \_\_\_\_\_

i. Roof Type ▶ Pitched  
 j. Construction Type ▶ Frame  
 k. Primary Exterior Finish ▶ Combination

**4. Site Amenities (indicate all proposed)**

a. Business Center.....	<u>TRUE</u>	f. Limited Access.....	<u>FALSE</u>
b. Covered Parking.....	<u>FALSE</u>	g. Playground.....	<u>TRUE</u>
c. Exercise Room.....	<u>TRUE</u>	h. Pool.....	<u>TRUE</u>
d. Gated access to Site.....	<u>FALSE</u>	i. Rental Office.....	<u>TRUE</u>
e. Laundry facilities.....	<u>TRUE</u>	j. Sports Activity Court..	<u>FALSE</u>
		k. Other:	_____

l. Describe Community Facilities: Community room

m. Number of Proposed Parking Spaces..... 353  
 Parking is shared with another entity ..... FALSE

n. Development located within 1/2 mile of an existing commuter rail, light rail or subway station or 1/4 mile from existing public bus stop. .... FALSE

If **True**, Provide required documentation (**TAB K3**).

**H. STRUCTURE AND UNITS INFORMATION**

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**5. Plans and Specifications**

- a. **Minimum submission requirements for all properties (new construction, rehabilitation and adaptive reuse):**
  - i. A location map with development clearly defined.
  - ii. Sketch plan of the site showing overall dimensions of all building(s), major site elements (e.g., parking lots and location of existing utilities, and water, sewer, electric, gas in the streets adjacent to the site). Contour lines and elevations are not required.
  - iii. Sketch plans of all building(s) reflecting overall dimensions of:
    - a. Typical floor plan(s) showing apartment types and placement
    - b. Ground floor plan(s) showing common areas
    - c. Sketch floor plan(s) of typical dwelling unit(s)
    - d. Typical wall section(s) showing footing, foundation, wall and floor structureNotes must indicate basic materials in structure, floor and exterior finish.
  
- b. The following are due at reservation for Tax Exempt 4% Applications and at allocation for 9% Applications.
  - i. Phase I environmental assessment.
  - ii. Physical needs assessment for any rehab only development.

**NOTE:** All developments must meet VHDA's **Minimum Design and Construction Requirements**. By signing and submitting the Application for Reservation of LIHTC, the applicant certifies that the proposed project budget, plans & specifications and work write-ups incorporate all necessary elements to fulfill these requirements.

**6. Market Study Data:**

Obtain the following information from the **Market Study** conducted in connection with this tax credit application:

Project Wide Capture Rate - LIHTC Units	8.80%
Project Wide Capture Rate - Market Units	
Project Wide Capture Rate - All Units	8.80%
Project Wide Absorption Period (Months)	13

**J. ENHANCEMENTS**

Each development must meet the following baseline energy performance standard applicable to the development's construction category.

- a. **New Construction:** must meet all criteria for EPA EnergyStar certification.
- b. **Rehabilitation:** renovation must result in at least a 30% performance increase or score an 80 or lower on the HERS Index.
- c. **Adaptive Reuse:** must score a 95 or lower on the HERS Index.

Certification and HERS Index score must be verified by a third-party, independent, non-affiliated, certified RESNET home energy rater.

Indicate **True** for the following items that apply to the proposed development:

**ACTION:** Provide Architect Certification (**Mandatory**) and documents related to following items if applicable (**TAB F**)

**1. For any development, upon completion of construction/rehabilitation:**

- TRUE a. A community/meeting room with a minimum of 749 square feet is provided.
- 16.00% b. Percentage of brick or other similar low-maintenance material approved by the Authority covering the exterior walls. Community buildings are to be included in percentage calculations.
- TRUE c. Water expense is sub-metered (the tenant will pay monthly or bi-monthly bill).
- FALSE d. Each bathroom contains only of WaterSense labeled faucets, toilets and showerheads.
- TRUE e. Each unit is provided with the necessary infrastructure for high-speed internet/broadband service.
- TRUE f. Free WiFi access will be provided in community room for resident only usage.
- FALSE g. Each unit is provided free individual high speed internet access.
- or
- FALSE h. Each unit is provided free individual WiFi access.
- FALSE i. Full bath fans are wired to primary light with delayed timer or has continuous exhaust by ERV/DOAS.
- or
- FALSE j. Full bath fans are equipped with a humidistat.
- FALSE k. Cooking surfaces are equipped with fire prevention features
- or
- FALSE l. Cooking surfaces are equipped with fire suppression features.
- FALSE m. Rehab only: Each unit has dedicated space, drain and electrical hook-ups to accept a permanently installed dehumidification system.
- or
- FALSE n. All Construction types: each unit is equipped with a permanent dehumidification system.
- FALSE o. All interior doors within units are solid core.
- FALSE p. At minimum, one USB charging port in each kitchen, living room and all bedrooms.
- FALSE q. All kitchen light fixtures are LED and meet MDCR lighting guidelines.
- FALSE r. Each unit has a shelf or ledge outside the primary entry door located in an interior hallway.
- FALSE s. New construction only: Each unit to have balcony or patio with a minimum depth of 5 feet clear from face of building and a minimum size of 30 square feet.

**For all developments exclusively serving elderly tenants upon completion of construction/rehabilitation:**

**J. ENHANCEMENTS**

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- FALSE a. All cooking ranges have front controls.
- FALSE b. Bathrooms have an independent or supplemental heat source.
- FALSE c. All entrance doors have two eye viewers, one at 42" inches and the other at standard height.

**2. Green Certification**

- a. Applicant agrees to meet the base line energy performance standard applicable to the development's construction category as listed above.

The applicant will also obtain one of the following:

- |   |   |
|---|---|
| <u>FALSE</u> Earthcraft Gold or higher certification        | <u>FALSE</u> National Green Building Standard (NGBS) certification of Silver or higher. |
| <u>FALSE</u> U.S. Green Building Council LEED certification | <u>FALSE</u> Enterprise Green Communities (EGC) Certification                           |

**Action:** If seeking any points associated Green certification, provide appropriate documentation at **TAB F**.

- b. Applicant will pursue one of the following certifications to be awarded points on a future development application. (Failure to reach this goal will not result in a penalty.)

- |  |                                      |
|--|--------------------------------------|
| <u>FALSE</u> Zero Energy Ready Home Requirements | <u>FALSE</u> Passive House Standards |
|--|--------------------------------------|

**3. Universal Design - Units Meeting Universal Design Standards (units must be shown on Plans)**

- FALSE a. Architect of record certifies that units will be constructed to meet VHDA's Universal Design standards.
- 0 b. Number of Rental Units constructed to meet VHDA's Universal Design standards:  
0% % of Total Rental Units

- 4. FALSE Market-rate units' amenities are substantially equivalent to those of the low income units.

If not, please explain:

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**2019 Low-Income Housing Tax Credit Application For Reservation**

**I. UTILITIES**

1. Describe the Heating/AC System: Individual Electric Heat Pumps

2. Services Included:

Utilities	Type of Utility (Gas, Electric, Oil, etc.)	Utilities Paid by:	Enter Allowances by Bedroom Size				
			0-bdr	1-bdr	2-bdr	3-bdr	4-br
Heating	Electric	Tenant	0	26	33	41	0
Air Conditioning	Electric	Tenant	0	7	9	11	0
Cooking	Electric	Tenant	0	4	5	6	0
Lighting	Electric	Tenant	0	15	20	24	0
Hot Water	Electric	Tenant	0	13	17	21	0
Water		Tenant	0	22	29	35	0
Sewer		Tenant	0	27	35	43	0
Trash		Tenant	0	12	12	12	0
Total utility allowance for costs paid by tenant			\$0	\$126	\$160	\$193	\$0

3. The following sources were used for Utility Allowance Calculation (Provide documentation **TAB R**).

- a. FALSE HUD
- b. FALSE Utility Company (Estimate)
- c. FALSE Utility Company (Actual Survey)
- d. FALSE Local PHA
- e. TRUE Other: VHDA Schedule

**Warning:** The VHDA housing choice voucher program utility schedule shown on VHDA.com should not be used unless directed to do so by the local housing authority.

**K. SPECIAL HOUSING NEEDS**

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**NOTE:** Any Applicant commits to providing first preference to members of targeted populations having state rental assistance and will not impose any eligibility requirements or lease terms for such individuals that are more restrictive than its standard requirements and terms, the terms of the MOU establishing the target population, or the eligibility requirements for the state rental assistance.

1. **Accessibility:** Indicate **True** for the following point categories, as appropriate.

**Action:** Provide appropriate documentation (**Tab X**)

**FALSE**

a. Any development in which (i) the greater of 5 units or 10% of units will be assisted by HUD project-based vouchers (as evidenced by the submission of a letter satisfactory to the Authority from an authorized public housing authority (PHA) that the development meets all prerequisites for such assistance), or another form of documented and binding federal project-based rent subsidies in order to ensure occupancy by extremely low-income persons. Locality project based rental subsidy meets the definition of state project based rental subsidy;

(ii) will conform to HUD regulations interpreting the accessibility requirements of section 504 of the Rehabilitation Act; and be actively marketed to persons with disabilities as defined in the Fair Housing Act in accordance with a plan submitted as part of the application for credits.

(iii) above must include roll-in showers, roll under sinks and front control ranges, unless agreed to by the Authority prior to the applicant's submission of its application.

Documentation from source of assistance must be provided with the application.

**Note:** Subsidies may apply to any units, not only those built to satisfy Section 504.  
(60 points)

**FALSE**

b. Any development in which the greater of 5 units or 10% of the units (i) have rents within HUD's Housing Choice Voucher ("HCV") payment standard; (ii) conform to HUD regulations interpreting the accessibility requirements of section 504 of the Rehabilitation Act; and (iii) are actively marketed to persons with disabilities as defined in the Fair Housing Act in accordance with a plan submitted as part of the application for credits (30 points)

**TRUE**

c. Any development in which 5% of the units (i) conform to HUD regulations interpreting the accessibility requirements of section 504 of the Rehabilitation Act and (ii) are actively marketed to persons with disabilities as defined in the Fair Housing Act in accordance with a plan submitted as part of this application for credits. (15 points)

**For items a,b or c, all common space must also conform to HUD regulations interpreting the accessibility Rehabilitation Act.**

K. SPECIAL HOUSING NEEDS

2. Special Housing Needs/Leasing Preference:

a. If not general population, select applicable special population:

- FALSE Elderly (as defined by the United States Fair Housing Act.)
- FALSE Persons with Disabilities (must meet the requirements of the Federal Americans with Disabilities Act) - Accessible Supportive Housing Pool only
- FALSE Supportive Housing (as described in the Tax Credit Manual)

**Action:** Provide Permanent Supportive Housing Certification (**Tab S**)

b. The development has existing tenants and a relocation plan has been developed.....  FALSE

(If **True**, VHDA policy requires that the impact of economic and/or physical displacement on those tenants be minimized, in which Owners agree to abide by the Authority's Relocation Guidelines for LIHTC properties.)

**Action:** Provide Relocation Plan (**Mandatory if tenants are displaced - Tab J**)

3. Leasing Preferences

a. Will leasing preference be given to applicants on a public housing waiting list and/or Section 8 waiting list? select:  No

Organization which holds such waiting list: \_\_\_\_\_

Contact person: \_\_\_\_\_

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

Phone Number \_\_\_\_\_

**Action:** Provide required notification documentation (**TAB L**)

b. Leasing preference will be given to individuals and families with children.....  TRUE

(Less than or equal to 20% of the units must have of 1 or less bedrooms).

c. Specify the number of low-income units that will serve individuals and families with children by providing three or more bedrooms:  61

% of total Low Income Units  31%

**NOTE:** Development must utilize a **VHDA Certified Management Agent**. Proof of management certification must be provided before 8609s are issued.

K. SPECIAL HOUSING NEEDS

4. Rental Assistance

a. Some of the low-income units do or will receive rental assistance..... FALSE

b. Indicate True if rental assistance will be available from the following

FALSE Rental Assistance Demonstration (RAD) or other PHA conversion to based rental assistance.

FALSE Section 8 New Construction Substantial Rehabilitation

FALSE Section 8 Moderate Rehabilitation

FALSE Section 8 Certificates

FALSE Section 8 Project Based Assistance

FALSE RD 515 Rental Assistance

FALSE Section 8 Vouchers

FALSE State Assistance

FALSE Other: \_\_\_\_\_

c. The Project Based vouchers above are applicable to the 30% units seeking points.

FALSE

i. If True above, how many of the 30% units will not have project based vouchers? \_\_\_\_\_

d. Number of units receiving assistance:

0

How many years in rental assistance contract?

\_\_\_\_\_

Expiration date of contract:

\_\_\_\_\_

There is an Option to Renew.....

FALSE

**Action:** Contract or other agreement provided **(TAB Q)**.



**L. UNIT DETAILS**

**1. Set-Aside Election:**

**UNITS SELECTED IN INCOME AND RENT DETERMINE POINTS FOR THE BONUS POINT CATEGORY**

Note: In order to qualify for any tax credits, a development must meet one of two minimum threshold occupancy tests. Either (i) at least 20% of the units must be rent-restricted and occupied by persons whose incomes are 50% or less of the area median income adjusted for family size (this is called the 20/50 test) or (ii) at least 40% of the units must be rent-restricted and occupied by persons whose incomes are 60% or less of the area median income adjusted for family size (this is called the 40/60 test), all as described in Section 42 of the IRC. Rent-and income-restricted units are known as low-income units. If you have more low-income units than required, you qualify for more credits. If you serve lower incomes than required, you receive more points under the ranking system.

**a. Units Provided Per Household Type:**

Income Levels		
# of Units	% of Units	
0	0.00%	20% Area Median
0	0.00%	30% Area Median
0	0.00%	40% Area Median
0	0.00%	50% Area Median
200	100.00%	60% Area Median
0	0.00%	70% Area Median
0	0.00%	80% Area Median
0	0.00%	Market Units
200	100.00%	<b>Total</b>

Rent Levels		
# of Units	% of Units	
0	0.00%	20% Area Median
0	0.00%	30% Area Median
0	0.00%	40% Area Median
0	0.00%	50% Area Median
200	100.00%	60% Area Median
0	0.00%	70% Area Median
0	0.00%	80% Area Median
0	0.00%	Market Units
200	100.00%	<b>Total</b>

- b. The development plans to utilize income averaging..... **TRUE**  
 If above is true, should the points based on the units assigned to the levels above **be waived** and therefore not required for compliance?  
 20-30% Levels **FALSE**      40% Levels **FALSE**      50% levels **FALSE**

**2. Unit Detail**

**FOR YOUR CONVENIENCE, COPY AND PASTE IS ALLOWED WITHIN UNIT MIX GRID**

In the following grid, add a row for each unique unit type planned within the development. Enter the appropriate data for both tax credit and market rate units.

	Unit Type (Select One)	Rent Target (Select One)	Number of Units	Number of Units 504 compliant	Net Rentable Square Feet	Monthly Rent Per Unit	Total Monthly Rent
Mix 1	1 BR - 1 Bath	60% AMI	2		661.00	\$1,125.00	\$2,250
Mix 2	1 BR - 1 Bath	60% AMI	11	1	713.00	\$1,125.00	\$12,375
Mix 3	1 BR - 1 Bath	60% AMI	1	1	719.00	\$1,125.00	\$1,125
Mix 4	1 BR - 1 Bath	60% AMI	16		686.00	\$1,125.00	\$18,000
Mix 5	2 BR - 2 Bath	60% AMI	81		881.00	\$1,300.00	\$105,300
Mix 6	2 BR - 2 Bath	60% AMI	18	3	1042.00	\$1,325.00	\$23,850
Mix 7	2 BR - 2 Bath	60% AMI	2	2	1040.00	\$1,325.00	\$2,650
Mix 8	2 BR - 2 Bath	60% AMI	8		1076.00	\$1,350.00	\$10,800
Mix 9	3 BR - 2 Bath	60% AMI	28	2	1223.00	\$1,490.00	\$41,720
Mix 10	3 BR - 2 Bath	60% AMI	1	1	1221.00	\$1,490.00	\$1,490
Mix 11	3 BR - 2 Bath	60% AMI	32		1256.00	\$1,500.00	\$48,000
Mix 12							\$0
Mix 13							\$0
Mix 14							\$0
Mix 15							\$0
Mix 16							\$0
Mix 17							\$0
Mix 18							\$0
Mix 19							\$0
Mix 20							\$0
Mix 21							\$0

L. UNIT DETAILS

Mix 22							\$0
Mix 23							\$0
Mix 24							\$0
Mix 25							\$0
Mix 26							\$0
Mix 27							\$0
Mix 28							\$0
Mix 29							\$0
Mix 30							\$0
Mix 31							\$0
Mix 32							\$0
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Mix 72							\$0
Mix 73							\$0
Mix 74							\$0
Mix 75							\$0
Mix 76							\$0
Mix 77							\$0
Mix 78							\$0
Mix 79							\$0

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L. UNIT DETAILS

Mix 80								\$0
Mix 81								\$0
Mix 82								\$0
Mix 83								\$0
Mix 84								\$0
Mix 85								\$0
Mix 86								\$0
Mix 87								\$0
Mix 88								\$0
Mix 89								\$0
Mix 90								\$0
Mix 91								\$0
Mix 92								\$0
Mix 93								\$0
Mix 94								\$0
Mix 95								\$0
Mix 96								\$0
Mix 97								\$0
Mix 98								\$0
Mix 99								\$0
Mix 100								\$0
<b>TOTALS</b>			200	10	10,518.00	\$14,280		\$267,560

<b>Total Units</b>	<b>200</b>	<b>Net Rentable SF:</b>	<b>TC Units</b>	<b>197,322.00</b>
			<b>MKT Units</b>	<b>0.00</b>
			<b>Total NR SF:</b>	<b>197,322.00</b>

<b>Floor Space Fraction (to 7 decimals)</b>	<b>100.00000%</b>
---	-------------------

**M. OPERATING EXPENSES**

**Administrative:**

Use Whole Numbers Only!

1. Advertising/Marketing		\$50,000
2. Office Salaries		\$37,800
3. Office Supplies		\$3,500
4. Office/Model Apartment	(type _____ )	\$0
5. Management Fee		\$122,239
<u>4.00%</u> of EGI	<u>\$611.20</u> Per Unit	
6. Manager Salaries		\$75,888
7. Staff Unit (s)	(type _____ )	\$0
8. Legal		\$5,000
9. Auditing		\$5,000
10. Bookkeeping/Accounting Fees		\$12,000
11. Telephone & Answering Service		\$7,500
12. Tax Credit Monitoring Fee		\$7,000
13. Miscellaneous Administrative		\$20,000
<b>Total Administrative</b>		<b>\$345,927</b>

**Utilities**

14. Fuel Oil		\$0
15. Electricity		\$60,000
16. Water		\$20,000
17. Gas		\$0
18. Sewer		\$0
<b>Total Utility</b>		<b>\$80,000</b>

**Operating:**

19. Janitor/Cleaning Payroll		\$0
20. Janitor/Cleaning Supplies		\$25,000
21. Janitor/Cleaning Contract		\$25,000
22. Exterminating		\$3,000
23. Trash Removal		\$20,000
24. Security Payroll/Contract		\$5,000
25. Grounds Payroll		\$0
26. Grounds Supplies		\$0
27. Grounds Contract		\$25,000
28. Maintenance/Repairs Payroll		\$102,688
29. Repairs/Material		\$20,000
30. Repairs Contract		\$15,000
31. Elevator Maintenance/Contract		\$5,000
32. Heating/Cooling Repairs & Maintenance		\$10,000
33. Pool Maintenance/Contract/Staff		\$10,000
34. Snow Removal		\$2,000
35. Decorating/Payroll/Contract		\$0
36. Decorating Supplies		\$0
37. Miscellaneous		\$0
<b>Totals Operating &amp; Maintenance</b>		<b>\$267,688</b>

**M. OPERATING EXPENSES**

**Taxes & Insurance**

38. Real Estate Taxes	\$182,535
39. Payroll Taxes	\$0
40. Miscellaneous Taxes/Licenses/Permits	\$0
41. Property & Liability Insurance	\$50,000
42. Fidelity Bond	\$0
43. Workman's Compensation	\$3,390
44. Health Insurance & Employee Benefits	\$36,462
45. Other Insurance	\$0
<b>Total Taxes &amp; Insurance</b>	<b>\$272,387</b>

<b>Total Operating Expense</b>	<b>\$966,002</b>
--------------------------------	------------------

<b>Total Operating Expenses Per Unit</b>	<b>\$4,830</b>	<b>C. Total Operating Expenses as % of EGI</b>	<b>31.62%</b>
--	----------------	--	---------------

<b>Replacement Reserves</b> (Total # Units X \$300 or \$250 New Const. Elderly Minimum)	<b>\$60,000</b>
---	-----------------

<b>Total Expenses</b>	<b>\$1,026,002</b>
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**ACTION:** Provide Documentation of Operating Budget at **Tab R** if applicable.

2019 Low-Income Housing Tax Credit Application For Reservation

N. PROJECT SCHEDULE

ACTIVITY	ACTUAL OR ANTICIPATED DATE	NAME OF RESPONSIBLE PERSON
<b>1. SITE</b>		
a. Option/Contract	9/9/2016	JP Hyland
b. Site Acquisition	10/30/2019	JP Hyland
c. Zoning Approval	9/25/2018	JP Hyland
d. Site Plan Approval	8/15/2019	JP Hyland
<b>2. Financing</b>		
<b>a. Construction Loan</b>		
i. Loan Application	8/24/2018	Adam Ross
ii. Conditional Commitment		
iii. Firm Commitment	3/15/2019	Adam Ross
<b>b. Permanent Loan - First Lien</b>		
i. Loan Application	8/24/2018	Adam Ross
ii. Conditional Commitment		
iii. Firm Commitment	4/2/2019	Adam Ross
<b>c. Permanent Loan-Second Lien</b>		
i. Loan Application		
ii. Conditional Commitment		
iii. Firm Commitment		
<b>d. Other Loans &amp; Grants</b>		
i. Type & Source, List		
ii. Application		
iii. Award/Commitment		
<b>2. Formation of Owner</b>	6/1/2018	Adam Ross
<b>3. IRS Approval of Nonprofit Status</b>		
<b>4. Closing and Transfer of Property to Owner</b>	10/30/2019	JP Hyland
<b>5. Plans and Specifications, Working Drawings</b>	8/13/2018	Jeff Price
<b>6. Building Permit Issued by Local Government</b>	10/1/2019	Becky Stoyer
<b>7. Start Construction</b>	11/1/2019	Matt Gass
<b>8. Begin Lease-up</b>	1/1/2021	Daniel Bauman
<b>9. Complete Construction</b>	7/1/2021	Matt Gass
<b>10. Complete Lease-Up</b>	1/30/2022	Daniel Bauman
<b>11. Credit Placed in Service Date</b>	7/1/2021	Adam Ross

**O. PROJECT BUDGET - HARD COSTS**

**Cost/Basis/Maximum Allowable Credit**

Complete cost column and basis column(s) as appropriate

Note: Attorney must opine, among other things, as to correctness of the inclusion of each cost item in eligible basis, type of credit and numerical calculations included in Project Budget.

<b>Must Use Whole Numbers Only!</b>	(A) Cost	Amount of Cost up to 100% Includable in Eligible Basis--Use Applicable Column(s):		
		"30% Present Value Credit"		(D)
		(B) Acquisition	(C) Rehab/ New Construction	"70 % Present Value Credit"
Item				
<b>1. Contractor Cost</b>				
a. Unit Structures (New)	26,930,889	0	25,708,628	0
b. Unit Structures (Rehab)	0	0	0	0
c. Non Residential Structures	0	0	0	0
d. Commercial Space Costs	0	0	0	0
e. Structured Parking Garage	0	0	0	0
<b>Total Structure</b>	26,930,889	0	25,708,628	0
f. Earthwork	0	0	0	0
g. Site Utilities	0	0	0	0
h. Roads & Walks	0	0	0	0
i. Site Improvements	0	0	0	0
j. Lawns & Planting	0	0	0	0
k. Engineering	0	0	0	0
l. Off-Site Improvements	0	0	0	0
m. Site Environmental Mitigation	0	0	0	0
n. Demolition	0	0	0	0
o. Site Work	0	0	0	0
p. Other Site work	0	0	0	0
<b>Total Land Improvements</b>	0	0	0	0
<b>Total Structure and Land</b>	26,930,889	0	25,708,628	0
q. General Requirements	1,244,469	0	1,184,822	0
r. Builder's Overhead ( 2.0% Contract)	534,915	0	509,277	0
s. Builder's Profit ( 4.9% Contract)	1,311,067	0	1,248,228	0
t. Bonds	282,213	0	268,687	0
u. Building Permits	0	0	0	0
v. Special Construction	0	0	0	0
w. Special Equipment	0	0	0	0
x. Other 1: _____	0	0	0	0
y. Other 2: _____	0	0	0	0
z. Other 3: _____	0	0	0	0
<b>Contractor Costs</b>	<b>\$30,303,553</b>	<b>\$0</b>	<b>\$28,919,642</b>	<b>\$0</b>

**O. PROJECT BUDGET - OWNER COSTS**

**MUST USE WHOLE NUMBERS ONLY!**

Item	(A) Cost	Amount of Cost up to 100% Includable in Eligible Basis--Use Applicable Column(s):		
		"30% Present Value Credit"		(D)
		(B) Acquisition	(C) Rehab/ New Construction	"70 % Present Value Credit"
<b>2. Owner Costs</b>				
a. Building Permit	228,347	0	228,347	0
b. Architecture/Engineering Design Fee \$3,862 /Unit)	772,300	0	772,300	0
c. Architecture Supervision Fee \$965 /Unit)	193,075	0	193,075	0
d. Tap Fees	1,619,319	0	1,619,319	0
e. Environmental	122,200	0	122,200	0
f. Soil Borings	10,896	0	10,896	0
g. EarthCraft/LEED	50,950	0	0	0
h. Appraisal	18,000	0	0	0
i. Market Study	17,200	0	17,200	0
j. Site Engineering / Survey	100,000	0	100,000	0
k. Construction/Development Mgt	0	0	0	0
l. Structural/Mechanical Study	20,000	0	20,000	0
m. Construction Loan Origination Fee	65,426	0	65,426	0
n. Construction Interest ( 0.0% for 0 months)	1,368,285	0	1,021,253	0
o. Taxes During Construction	146,856	0	146,856	0
p. Insurance During Construction	231,706	0	231,706	0
q. Permanent Loan Fee ( 0.0% )	238,635	0	0	0
r. Other Permanent Loan Fees	0	0	0	0
s. Letter of Credit	0	0	0	0
t. Cost Certification Fee	48,000	0	0	0
u. Accounting	0	0	0	0
v. Title and Recording	161,467	0	0	0
w. Legal Fees for Closing	50,000	0	2,381	0
x. Mortgage Banker	0	0	0	0
y. Tax Credit Fee	83,230	0	0	0
z. Tenant Relocation	0	0	0	0
aa. Fixtures, Furnitures and Equipment	317,750	0	317,750	0
ab. Organization Costs	222,500	0	3,095	0
ac. Operating Reserve	1,708,152	0	0	0
ad. Contingency	0	0	0	0
ae. Security	0	0	0	0
af. Utilities	0	0	0	0
(1) Other* specify: Syndication	98,923	0	0	0
(2) Other* specify: Escrows	264,480	0	0	0
(3) Other* specify: Bond Issuance	396,990	0	0	0
(4) Other* specify: Neg. Arb.	103,591	0	86,326	0
(5) Other * specify: HUD Inspection	166,394	0	166,394	0



**O. PROJECT BUDGET - OWNER COSTS**

(6) Other* specify: Exam Fee	99,837	0	4,754	0
(7) Other* specify: Dev, OH	0	0	0	0
(8) Other* specify: MIP	166,394	0	7,924	0
(9) Other* specify: GNMA	10,700	0	510	0
(10) Other* specify: Working Cap, IOD reserves	2,153,849	0	0	0
Owner Costs Subtotal (Sum 2A..2(10))	\$11,255,452	\$0	\$5,137,712	\$0
<b>Subtotal 1 + 2</b> (Owner + Contractor Costs)	\$41,559,005	\$0	\$34,057,354	\$0
<b>3. Developer's Fees</b>	3,934,720	0	3,000,000	0
<b>4. Owner's Acquisition Costs</b>				
Land	2,250,000			
Existing Improvements	0	0		
Subtotal 4:	\$2,250,000	\$0		
<b>5. Total Development Costs</b>				
Subtotal 1+2+3+4:	\$47,743,725	\$0	\$37,057,354	\$0

If this application seeks rehab credits only, in which there is no acquisition and **no change in ownership**, enter the greater of appraised value or tax assessment value here:

(Provide documentation at Tab E)

\$0	Land
\$0	Building

**Maximum Developer Fee:**

**\$3,934,720**

Proposed Development's Cost per Unit:  
per Sq Foot  
Applicable Cost Limit per unit:

\$238,719 **Meets Limits**  
\$177 **Meets Limits**  
\$259,224

2019 Low-Income Housing Tax Credit Application For Reservation

**P. ELIGIBLE BASIS CALCULATION**

Item	(A) Cost	Amount of Cost up to 100% Includable in Eligible Basis--Use Applicable Column(s):		
		"30 % Present Value Credit"		(D) "70 % Present Value Credit"
		(B) Acquisition	(C) Rehab/ New Construction	
<b>1. Total Development Costs</b>	47,743,725	0	37,057,354	0

**2. Reductions in Eligible Basis**

a. Amount of federal grant(s) used to finance qualifying development costs	0	0	0
b. Amount of nonqualified, nonrecourse financing	0	0	0
c. Costs of nonqualifying units of higher quality (or excess portion thereof)	0	0	0
d. Historic Tax Credit (residential portion)	0	0	0

**3. Total Eligible Basis (1 - 2 above)**

0	37,057,354	0
---	------------	---

**4. Adjustment(s) to Eligible Basis (For non-acquisition costs in eligible basis)**

a. For QCT or DDA (Eligible Basis x 30%) <i>State Designated Basis Boosts:</i>	0	0
b. For Revitalization or Supportive Housing (Eligible Basis x 30%)	0	0
c. For Green Certification (Eligible Basis x 10%)		0

**Total Adjusted Eligible basis**

37,057,354	0
------------	---

**5. Applicable Fraction**

100.00000%	100.00000%	100.00000%
------------	------------	------------

**6. Total Qualified Basis**

(Eligible Basis x Applicable Fraction)

0	37,057,354	0
---	------------	---

**7. Applicable Percentage**

(Beginning with 2016 Allocations, use the standard 9% rate.)  
(For tax exempt bonds, use the most recently published rates.)

3.17%	3.17%	0.00%
-------	-------	-------

**8. Maximum Allowable Credit under IRC §42**

(Qualified Basis x Applicable Percentage)  
(Must be same as BIN total and equal to or less than credit amount allowed)

\$0	\$1,174,718	\$0
\$1,174,718 Combined 30% & 70% P. V. Credit		

**Q. SOURCES OF FUNDS**

**Action:** Provide Documentation for all Funding Sources at **Tab T**

**1. Construction Financing:** List individually the sources of construction financing, including any such loans financed through grant sources:

Source of Funds	Date of Application	Date of Commitment	Amount of Funds	Name of Contact Person
1. Spotsylvania TE Bonds	08/24/18	04/02/19	\$21,619,045	
2.				
3.				
Total Construction Funding:			\$21,619,045	

**2. Permanent Financing:** List individually the sources of all permanent financing in order of lien position:

Source of Funds	Date of Application	Date of Commitment	Amount of Funds	Annual Debt Service Cost	Interest Rate of Loan	Amortization Period IN YEARS	Term of Loan (years)
1. HUD (221D4)	8/24/2018	4/2/2019	\$33,278,878	\$1,752,220	4.33%	40.00	40.00
2. Bonaventure Capital			\$2,153,849				
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
Total Permanent Funding:				\$35,432,727	\$1,752,220		

**3. Grants:** List all grants provided for the development:

Source of Funds	Date of Application	Date of Commitment	Amount of Funds	Name of Contact Person
1.				
2.				
3.				
4.				
5.				
6.				
Total Permanent Grants:			\$0	

**Q. SOURCES OF FUNDS**

**4. Subsidized Funding**

	Source of Funds	Date of Commitment	Amount of Funds
1.			
2.			
3.			\$0
4.			
5.			
Total Subsidized Funding			\$0

**5. Recap of Federal, State, and Local Funds**

Portions of the sources of funds described above for the development are financed directly or indirectly with Federal, State, or Local Government Funds..... FALSE

If above is **True**, then list the amount of money involved by all appropriate types.

Below-Market Loans

TE: See Below For 50% Test Status

a.	Tax Exempt Bonds	\$21,619,045
b.	RD 515	\$0
c.	Section 221(d)(3)	\$0
d.	Section 312	\$0
e.	Section 236	\$0
f.	VHDA SPARC/REACH	\$0
g.	HOME Funds	\$0
h.	Other:	\$0
i.	Other:	\$0

Market-Rate Loans

a.	Taxable Bonds	\$0
b.	Section 220	\$0
c.	Section 221(d)(3)	\$0
d.	Section 221(d)(4)	\$33,278,878
e.	Section 236	\$0
f.	Section 223(f)	\$0
g.	Other:	\$0

Grants\*

a.	CDBG	\$0
b.	UDAG	\$0

Grants

c.	State	
d.	Local	
e.	Other:	

\*This means grants to the partnership. If you received a loan financed by a locality which received one of the listed grants, please list it in the appropriate loan column as "other" and describe the applicable grant program which funded it.

**Q. SOURCES OF FUNDS**

---

**6. For Transactions Using Tax-Exempt Bonds Seeking 4% Credits:**

For purposes of the 50% Test, and based only on the data entered to this application, the portion of the aggregate basis of buildings and land financed with tax-exempt funds is: **55.00%**

7. Some of the development's financing has credit enhancements..... **FALSE**

If **True**, list which financing and describe the credit enhancement:

\_\_\_\_\_  
\_\_\_\_\_

**8. Other Subsidies**

**Action:** Provide documentation (**Tab Q**)

- a. **FALSE** Real Estate Tax Abatement on the increase in the value of the development.
- b. **FALSE** **New** project based subsidy from HUD or Rural Development for the greater of 5 or 10% of the units in the development.
- c. **FALSE** Other \_\_\_\_\_

9. A HUD approval for transfer of physical asset is required..... **FALSE**

**2019 Low-Income Housing Tax Credit Application For Reservation**

**R. EQUITY**

**1. Equity**

a. Portion of Syndication Proceeds Attributable to Historic Tax Credit				
Amount of Federal historic credits	\$0	x Equity \$	\$0.000	= \$0
Amount of Virginia historic credits	\$0	x Equity \$	\$0.000	= \$0
b. Equity that Sponsor will Fund:				
i. Cash Investment	\$0			
ii. Contributed Land/Building	\$0			
iii. Deferred Developer Fee	\$1,503,590			(Note: Deferred Developer Fee cannot be negative.)
iv. Other:	\$0			
<b>Equity Total</b>	<b>\$1,503,590</b>			

**2. Equity Gap Calculation**

a. Total Development Cost	\$47,743,725
b. Total of Permanent Funding, Grants and Equity	- \$36,936,317
c. Equity Gap	\$10,807,408
d. Developer Equity	- \$1,079
e. Equity gap to be funded with low-income tax credit proceeds	\$10,806,329

**3. Syndication Information (If Applicable)**

a. Actual or Anticipated Name of Syndicator:	PNC Bank, National Association		
Contact Person:	Matt Beston	Phone:	(617) 905-0830
Street Address:	One Marina Park Drive, Suite 1410		
City:	Boston	State:	MA
		Zip:	2210
b. Syndication Equity			
i. Anticipated Annual Credits		\$1,174,718.00	
ii. Equity Dollars Per Credit (e.g., \$0.85 per dollar of credit)		\$0.920	
iii. Percent of ownership entity (e.g., 99% or 99.9%)		99.99000%	
iv. Syndication costs not included in Total Development Costs (e.g., advisory fees)		\$0	
v. Net credit amount anticipated by user of credits		\$1,174,601	
vi. Total to be paid by anticipated users of credit (e.g., limited partners)		\$10,806,329	
c. Syndication:	Select?		
d. Investors:	Select?		

**4. Net Syndication Amount**

Which will be used to pay for Total Development Costs \$10,806,329

**5. Net Equity Factor**

Must be equal to or greater than 85% 92.0000352508%

**S. DETERMINATION OF RESERVATION AMOUNT NEEDED**

The following calculation of the amount of credits needed is substantially the same as the calculation which will be made by VHDA to determine, as required by the IRC, the amount of credits which may be allocated for the development. However, VHDA at all times retains the right to substitute such information and assumptions as are determined by VHDA to be reasonable for the information and assumptions provided herein as to costs (including development fees, profits, etc.), sources for funding, expected equity, etc. Accordingly, if the development is selected by VHDA for a reservation of credits, the amount of such reservation may differ significantly from the amount you compute below.

1. Total Development Costs		<u>\$47,743,725</u>
2. Less Total of Permanent Funding, Grants and Equity	-	<u>\$36,936,317</u>
3. Equals Equity Gap		<u>\$10,807,408</u>
4. Divided by Net Equity Factor (Percent of 10-year credit expected to be raised as equity investment)		<u>92.0000352508%</u>
5. Equals Ten-Year Credit Amount Needed to Fund Gap		<u>\$11,747,178</u>
Divided by ten years		<u>10</u>
6. Equals Annual Tax Credit Required to Fund the Equity Gap		<u>\$1,174,718</u>
7. Maximum Allowable Credit Amount (from Eligible Basis Calculation)		<u>\$1,174,718</u>
8. Requested Credit Amount	For 30% PV Credit:	<u>\$1,174,718</u>
	For 70% PV Credit:	<u>\$0</u>
Credit per LI Units	<u>\$5,873.5900</u>	
Credit per LI Bedroom	<u>\$2,725.5638</u>	
	<b>Combined 30% &amp; 70% PV Credit Requested</b>	<b>\$1,174,718</b>

9. **Action:** Provide Attorney’s Opinion (**Mandatory Tab H**)

**T. CASH FLOW**

**1. Revenue**

Indicate the estimated monthly income for the **Low-Income Units** (based on Unit Details tab):

Total Monthly Rental Income for LIHTC Units		\$267,560
Plus Other Income Source (list):	move-in fees, pet fee, cable incom	\$6,200
Equals Total Monthly Income:		<u>\$273,760</u>
Twelve Months		x12
Equals Annual Gross Potential Income		\$3,285,120
Less Vacancy Allowance	7.0%	<u>\$229,958</u>
<b>Equals Annual Effective Gross Income (EGI) - Low Income Units</b>		<u><u>\$3,055,162</u></u>

2. Indicate the estimated monthly income for the **Market Rate Units** (based on Unit Details tab):

Total Monthly Income for Market Rate Units:		\$0
Plus Other Income Source (list):		<u>\$0</u>
Equals Total Monthly Income:		<u>\$0</u>
Twelve Months		x12
Equals Annual Gross Potential Income		\$0
Less Vacancy Allowance	0.0%	<u>\$0</u>
<b>Equals Annual Effective Gross Income (EGI) - Market Rate Units</b>		<u><u>\$0</u></u>

**Action:** Provide documentation in support of Operating Budget (TAB R)

**3. Cash Flow (First Year)**

a. Annual EGI Low-Income Units	<u>\$3,055,162</u>
b. Annual EGI Market Units	<u>\$0</u>
c. Total Effective Gross Income	<u>\$3,055,162</u>
d. Total Expenses	<u>\$1,026,002</u>
e. Net Operating Income	<u>\$2,029,160</u>
f. Total Annual Debt Service	<u>\$1,752,220</u>
g. Cash Flow Available for Distribution	\$276,940



T. CASH FLOW

4. Projections for Financial Feasibility - 15 Year Projections of Cash Flow

	Stabilized Year 1	Year 2	Year 3	Year 4	Year 5
<b>Eff. Gross Income</b>	3,055,162	3,116,265	3,178,590	3,242,162	3,307,005
<b>Less Oper. Expenses</b>	1,026,002	1,056,782	1,088,486	1,121,140	1,154,774
<b>Net Income</b>	2,029,160	2,059,483	2,090,105	2,121,022	2,152,231
<b>Less Debt Service</b>	1,752,220	1,752,220	1,752,220	1,752,220	1,752,220
<b>Cash Flow</b>	276,940	307,263	337,885	368,802	400,011
<b>Debt Coverage Ratio</b>	1.16	1.18	1.19	1.21	1.23

	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Eff. Gross Income</b>	3,373,145	3,440,608	3,509,420	3,579,609	3,651,201
<b>Less Oper. Expenses</b>	1,189,418	1,225,100	1,261,853	1,299,709	1,338,700
<b>Net Income</b>	2,183,728	2,215,508	2,247,567	2,279,900	2,312,501
<b>Less Debt Service</b>	1,752,220	1,752,220	1,752,220	1,752,220	1,752,220
<b>Cash Flow</b>	431,508	463,288	495,347	527,680	560,281
<b>Debt Coverage Ratio</b>	1.25	1.26	1.28	1.30	1.32

	Year 11	Year 12	Year 13	Year 14	Year 15
<b>Eff. Gross Income</b>	3,724,225	3,798,709	3,874,684	3,952,177	4,031,221
<b>Less Oper. Expenses</b>	1,378,861	1,420,227	1,462,834	1,506,719	1,551,920
<b>Net Income</b>	2,345,364	2,378,483	2,411,850	2,445,459	2,479,301
<b>Less Debt Service</b>	1,752,220	1,752,220	1,752,220	1,752,220	1,752,220
<b>Cash Flow</b>	593,144	626,263	659,630	693,239	727,081
<b>Debt Coverage Ratio</b>	1.34	1.36	1.38	1.40	1.41

Estimated Annual Percentage Increase in Revenue 2.00% (Must be  $\leq$  2%)  
 Estimated Annual Percentage Increase in Expenses 3.00% (Must be  $\geq$  3%)

U. Building-by-Building Information

Must Complete

Qualified basis must be determined on a building-by building basis. Complete the section below. Building street addresses are required by the IRS (must have them by the time of allocation request).

Number of BINS: 4

FOR YOUR CONVENIENCE, COPY AND PASTE IS ALLOWED WITHIN BUILDING GRID

DO NOT use the CUT feature

Bldg #	BIN if known	NUMBER OF		Street Address 1	Street Address 2	City	State	Zip	30% Present Value Credit for Acquisition				30% Present Value Credit for Rehab / New Construction				70% Present Value Credit			
		TAX CREDIT UNITS	MARKET RATE UNITS						Estimate Qualified Basis	Actual or Anticipated In-Service Date	Applicable Percentage	Credit Amount	Estimate Qualified Basis	Actual or Anticipated In-Service Date	Applicable Percentage	Credit Amount	Estimate Qualified Basis	Actual or Anticipated In-Service Date	Applicable Percentage	Credit Amount
1.	1a	52	0	TBD		Fredericksburg	VA	22407				\$0	\$9,634,912	03/01/21	3.17%	\$305,427				\$0
2.	1b	48	0	TBD		Fredericksburg	VA	22407				\$0	\$8,893,765	03/01/21	3.17%	\$281,932				\$0
3.	2a	48	0	TBD		Fredericksburg	VA	22407				\$0	\$8,893,765	07/01/21	3.17%	\$281,932				\$0
4.	2b	52	0	TBD		Fredericksburg	VA	22407				\$0	\$9,634,912	07/01/21	3.17%	\$305,427				\$0
5.												\$0				\$0				\$0
6.												\$0				\$0				\$0
7.												\$0				\$0				\$0
8.												\$0				\$0				\$0
9.												\$0				\$0				\$0
10.												\$0				\$0				\$0
11.												\$0				\$0				\$0
12.												\$0				\$0				\$0
13.												\$0				\$0				\$0
14.												\$0				\$0				\$0
15.												\$0				\$0				\$0
16.												\$0				\$0				\$0
17.												\$0				\$0				\$0
18.												\$0				\$0				\$0
19.												\$0				\$0				\$0
20.												\$0				\$0				\$0
21.												\$0				\$0				\$0
22.												\$0				\$0				\$0
23.												\$0				\$0				\$0
24.												\$0				\$0				\$0
25.												\$0				\$0				\$0
26.												\$0				\$0				\$0
27.												\$0				\$0				\$0
28.												\$0				\$0				\$0
29.												\$0				\$0				\$0
30.												\$0				\$0				\$0
31.												\$0				\$0				\$0
32.												\$0				\$0				\$0
33.												\$0				\$0				\$0
34.												\$0				\$0				\$0
35.												\$0				\$0				\$0
		200	0	Totals from all buildings					\$0	\$0	\$37,057,354	\$0	\$1,174,718	\$0						

Number of BINS: 4

## 2019 Low-Income Housing Tax Credit Application For Reservation

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### V. STATEMENT OF OWNER

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The undersigned hereby acknowledges the following:

1. that, to the best of its knowledge and belief, all factual information provided herein or in connection herewith is true and correct, and all estimates are reasonable.
2. that it will at all times indemnify and hold harmless VHDA and its assigns against all losses, costs, damages, VHDA's expenses, and liabilities of any nature directly or indirectly resulting from, arising out of, or relating to VHDA's acceptance, consideration, approval, or disapproval of this reservation request and the issuance or nonissuance of an allocation of credits, grants and/or loan funds in connection herewith.
3. that points will be assigned only for representations made herein for which satisfactory documentation is submitted herewith and that no revised representations may be made in connection with this application once the deadline for applications has passed.
4. that this application form, provided by VHDA to applicants for tax credits, including all sections herein relative to basis, credit calculations, and determination of the amount of the credit necessary to make the development financially feasible, is provided only for the convenience of VHDA in reviewing reservation requests; that completion hereof in no way guarantees eligibility for the credits or ensures that the amount of credits applied for has been computed in accordance with IRC requirements; and that any notations herein describing IRC requirements are offered only as general guides and not as legal authority.
5. that the undersigned is responsible for ensuring that the proposed development will be comprised of qualified low-income buildings and that it will in all respects satisfy all applicable requirements of federal tax law and any other requirements imposed upon it by VHDA prior to allocation, should one be issued.
6. that the undersigned commits to providing first preference to members of targeted populations having state rental assistance and will not impose any eligibility requirements or lease terms terms for such individuals that are more restrictive than its standard requirements and terms, the terms of the MOU establishing the target population, or the eligibility requirements for the state rental assistance.
7. that, for the purposes of reviewing this application, VHDA is entitled to rely upon representations of the undersigned as to the inclusion of costs in eligible basis and as to all of the figures and calculations relative to the determination of qualified basis for the development as a whole and/or each building therein individually as well as the amounts and types of credit applicable thereof, but that the issuance of a reservation based on such representation in no way warrants their correctness or compliance with IRC requirements.
8. that VHDA may request or require changes in the information submitted herewith, may substitute its own figures which it deems reasonable for any or all figures provided herein by the undersigned and may reserve credits, if any, in an amount significantly different from the amount requested.
9. that reservations of credits are not transferable without prior written approval by VHDA at its sole discretion.

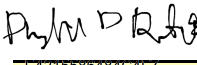
**2019 Low-Income Housing Tax Credit Application For Reservation**

**V. STATEMENT OF OWNER**

- 10. that the requirements for applying for the credits and the terms of any reservation or allocation thereof are subject to change at any time by federal or state law, federal, state or VHDA regulations, or other binding authority.
- 11. that reservations may be made subject to certain conditions to be satisfied prior to allocation and shall in all cases be contingent upon the receipt of a nonrefundable application fee of \$1000 and a nonrefundable reservation fee equal to 7% of the annual credit amount reserved.
- 12. that a true, exact, and complete copy of this application, including all the supporting documentation enclosed herewith, has been provided to the tax attorney who has provided the required attorney's opinion accompanying this submission.
- 13. that the undersigned has provided a complete list of all residential real estate developments in which the general partner(s) has (have) or had a controlling ownership interest and, in the case of those projects allocated credits under Section 42 of the IRC, complete information on the status of compliance with Section 42 and an explanation of any noncompliance. The undersigned hereby authorizes the Housing Credit Agencies of states in which these projects are located to share compliance information with the Authority.
- 14. that any principal of undersigned has not participated in a planned foreclosure or Qualified Contract request in Virginia after January 1, 2019.
- 15. that undersigned waives the right to pursue a Qualified Contract on this development.
- 16. that the information in this application may be disseminated to others for purposes of verification or other purposes consistent with the Virginia Freedom of Information Act. However, all information will be maintained, used or disseminated in accordance with the Government Data Collection and Dissemination Practices Act. The undersigned may refuse to supply the information requested, however, such refusal will result in VHDA's inability to process the application. The original or copy of this application may be retained by VHDA, even if tax credits are not allocated to the undersigned.

In Witness Whereof, the undersigned, being authorized, has caused this document to be executed in its name on the date of this application set forth in DEV Info tab hereof.

Legal Name of Owner: BWF Palmers Creek , LLC

DocuSigned by:  
 By:   
 Its: Manager  
 (Title)

W.

## LIHTC SELF SCORE SHEET

### Self Scoring Process

This Self Scoring Process is intended to provide you with an estimate of your application's score based on the information included within the reservation application. Other items, denoted below in the yellow shaded cells, are typically evaluated by VHDA's staff during the application review and feasibility process. For purposes of self scoring, we have made certain assumptions about your application. Edit the appropriate responses (Y or N) in the yellow shaded cells, if applicable. Item 5f requires a numeric value to be entered.

Please remember that this score is only an estimate. VHDA reserves the right to change application data and/or score sheet responses where appropriate, which may change the final score.

**MANDATORY ITEMS:**

- a. Signed, completed application with attached tabs in PDF format
- b. Active Excel copy of application
- c. Partnership agreement
- d. SCC Certification
- e. Previous participation form
- f. Site control document
- g. Architect's Certification
- h. Attorney's opinion
- i. Nonprofit questionnaire (if applicable)
- j. Appraisal
- k. Zoning document
- l. Universal Design Plans
- m. List of LIHTC Developments (Schedule A)

	Included		Score
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y, N, N/A	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
	Y	Y or N	0
<b>Total:</b>			<b>0.00</b>

**1. READINESS:**

- a. VHDA notification letter to CEO (via Locality Notification Information Application)
- b. Local CEO Opposition Letter
- c. Plan of development
- d. Location in a revitalization area based on Qualified Census Tract
- e. Location in a revitalization area with resolution
- f. Location in a Opportunity Zone

	Y	0 or -50	0.00
	N	0 or -25	0.00
	Y	0 or 40	40.00
	N	0 or 10	0.00
	N	0 or 15	0.00
	N	0 or 15	0.00
<b>Total:</b>			<b>40.00</b>

**2. HOUSING NEEDS CHARACTERISTICS:**

- a. Sec 8 or PHA waiting list preference
- b. Existing RD, HUD Section 8 or 236 program
- c. Subsidized funding commitments
- d. Tax abatement on increase of property's value
- e. New project based rental subsidy (HUD or RD)
- f. Census tract with <12% poverty rate
- g. Development listed on the Rural Development Rehab Priority List
- h. Dev. located in area with little or no increase in rent burdened population
- i. Dev. located in area with increasing rent burdened population

	N	0 or up to 5	0.00
	N	0 or 20	0.00
	0.00%	Up to 40	0.00
	N	0 or 5	0.00
	N	0 or 10	0.00
	3%	0, 20, 25 or 30	30.00
	N	0 or 15	0.00
	N	Up to -20	0.00
	Y	Up to 20	20.00
<b>Total:</b>			<b>50.00</b>

**2019 Low-Income Housing Tax Credit Application For Reservation**

**3. DEVELOPMENT CHARACTERISTICS:**

a. Amenities (See calculations below)			15.00
b. Project subsidies/HUD 504 accessibility for 5 or 10% of units	N	0 or 60	0.00
or c. HCV Payment Standard/HUD 504 accessibility for 5 or 10% of units	N	0 or 30	0.00
or d. HUD 504 accessibility for 5% of units	Y	0 or 15	15.00
e. Proximity to public transportation (within Northern VA or Tidewater)	N	0, 10 or 20	0.00
f. Development will be Green Certified	N	0 or 10	0.00
g. Units constructed to meet VHDA's Universal Design standards	0%	Up to 15	0.00
h. Developments with less than 100 units	N	up to 20	0.00
i. Historic Structure	N	0 or 5	0.00
	<b>Total:</b>		<u>30.00</u>

**4. TENANT POPULATION CHARACTERISTICS:**

Locality AMI	State AMI
\$117,200	\$55,900

a. Less than or equal to 20% of units having 1 or less bedrooms	Y	0 or 15	15.00
b. <plus> Percent of Low Income units with 3 or more bedrooms	30.50%	Up to 15	15.00
c. Units with rent at or below 30% of AMI and are not subsidized (up to 10% of LI units)	0.00%	Up to 10	0.00
d. Units with rents at or below 40% of AMI (up to 10% of LI units)	0.00%	Up to 10	0.00
e. Units with rent and income at or below 50% of AMI	0.00%	Up to 50	0.00
f. Units with rents at or below 50% rented to tenants at or below 60% of AMI	0.00%	Up to 25	0.00
or g. Units in LI Jurisdictions with rents <= 50% rented to tenants with <= 60% of AMI	0.00%	Up to 50	0.00
	<b>Total:</b>		<u>30.00</u>

**5. SPONSOR CHARACTERISTICS:**

a. Developer experience - 3 developments with 3 x units or 6 developments with 1 x units	N	0 or 50	0.00
or b. Developer experience - 3 developments and at least 500,000 in liquid assets	N	0 or 50	0.00
or c. Developer experience - 1 development with 1 x units	Y	0 or 10	10.00
d. Developer experience - life threatening hazard	N	0 or -50	0.00
e. Developer experience - noncompliance	N	0 or -15	0.00
f. Developer experience - did not build as represented	0	0 or -2x	0.00
g. Developer experience - failure to provide minimum building requirements	N	0 or -20	0.00
h. Developer experience - termination of credits by VHDA	N	0 or -10	0.00
i. Developer experience - exceeds cost limits at certification	N	0 or -50	0.00
j. Management company rated unsatisfactory	N	0 or -25	0.00
	<b>Total:</b>		<u>10.00</u>

**6. EFFICIENT USE OF RESOURCES:**

a. Credit per unit		Up to 200	148.10
b. Cost per unit		Up to 100	21.08
	<b>Total:</b>		<u>169.18</u>

**7. BONUS POINTS:**

a. Extended compliance	0 Years	40 or 50	0.00
or b. Nonprofit or LHA purchase option	N	0 or 60	0.00
or c. Nonprofit or LHA Home Ownership option	N	0 or 5	0.00
d. Combined 9% and 4% Tax Exempt Bond Site Plan	N	Up to 45	0.00
e. RAD or PHA Conversion participation and competing in Local Housing Authority pool	N	0 or 10	0.00
	<b>Total:</b>		<u>0.00</u>

425 Point Threshold - all 9% Tax Credits  
 325 Point Threshold - Tax Exempt Bonds

**TOTAL SCORE: 329.18**

**2019 Low-Income Housing Tax Credit Application For Reservation**

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**Amenities:**

	Max Pts	Score
All units have:		
a. Community Room	5	5.00
b. Exterior walls constructed with brick and other low maintenance materials	25	0.00
c. Sub metered water expense	5	5.00
d. Watersense labeled faucets, toilets and showerheads	3	0.00
e. Infrastructure for high speed internet/broadband	1	1.00
f. Free WiFi Access in community room	4	4.00
g. Each unit provided free individual high speed internet access	6	0.00
h. Each unit provided free individual WiFi	8	0.00
i. Bath Fan - Delayed timer or continuous exhaust	3	0.00
j. Baths equipped with humidistat	3	0.00
k. Cooking Surfaces equipped with fire prevention features	4	0.00
l. Cooking surfaces equipped with fire suppression features	2	0.00
m. Rehab only: dedicated space to accept permanent dehumidification system	2	0.00
n. Provides Permanently installed dehumidification system	5	0.00
o. All interior doors within units are solid core	3	0.00
p. USB in kitchen, living room and all bedrooms	1	0.00
q. LED Kitchen Light Fixtures	2	0.00
r. Shelf or Ledge at entrance within interior hallway	2	0.00
s. New Construction: Balcony or patio	4	0.00
		<u>15.00</u>
All elderly units have:		
t. Front-control ranges	1	0.00
u. Independent/suppl. heat source	1	0.00
v. Two eye viewers	1	0.00
		<u>0.00</u>
<b>Total amenities:</b>		<b><u>15.00</u></b>

X. Development Summary

Summary Information

2019 Low-Income Housing Tax Credit Application For Reservation

<b>Deal Name:</b>	<b>Palmers Creek</b>
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**Cycle Type:** 4% Tax Exempt Bonds Credits      **Requested Credit Amount:** \$1,174,718  
**Allocation Type:** New Construction      **Jurisdiction:** Spotsylvania County  
**Total Units:** 200      **Population Target:** General  
**Total LI Units:** 200  
**Project Gross Sq Ft:** 256,826.00      **Owner Contact:** Trudy Sloan  
**Green Certified?** FALSE

<b>Total Score</b> <b>329.18</b>
-------------------------------------

Source of Funds	Amount	Per Unit	Per Sq Ft	Annual Debt Service
Permanent Financing	\$35,432,727	\$177,164	\$138	\$1,752,220

Uses of Funds - Actual Costs				
Type of Uses	Amount	Per Unit	Sq Ft	% of TDC
Improvements	\$26,930,889	\$134,654	\$105	56.41%
General Req/Overhead/Profit	\$3,090,451	\$15,452	\$12	6.47%
Other Contract Costs	\$282,213	\$1,411	\$1	0.59%
Owner Costs	\$11,255,452	\$56,277	\$44	23.57%
Acquisition	\$2,250,000	\$11,250	\$9	4.71%
Developer Fee	\$3,934,720	\$19,674	\$15	8.24%
<b>Total Uses</b>	<b>\$47,743,725</b>	<b>\$238,719</b>		

Total Development Costs	
Total Improvements	\$41,559,005
Land Acquisition	\$2,250,000
Developer Fee	\$3,934,720
<b>Total Development Costs</b>	<b>\$47,743,725</b>

Income		
Gross Potential Income - LI Units		\$3,285,120
Gross Potential Income - Mkt Units		\$0
Subtotal		\$3,285,120
Less Vacancy %	7.00%	\$229,958
<b>Effective Gross Income</b>		<b>\$3,055,162</b>

Rental Assistance? FALSE

Expenses		
Category	Total	Per Unit
Administrative	\$345,927	\$1,730
Utilities	\$80,000	\$400
Operating & Maintenance	\$267,688	\$1,338
Taxes & Insurance	\$272,387	\$1,362
<b>Total Operating Expenses</b>	<b>\$966,002</b>	<b>\$4,830</b>
Replacement Reserves	\$60,000	\$300
<b>Total Expenses</b>	<b>\$1,026,002</b>	<b>\$5,130</b>

Cash Flow	
EGI	\$3,055,162
Total Expenses	\$1,026,002
<b>Net Income</b>	<b>\$2,029,160</b>
Debt Service	\$1,752,220
<b>Debt Coverage Ratio (YR1):</b>	<b>1.16</b>

**Proposed Cost Limit/Unit:** \$238,719  
**Applicable Cost Limit/Unit:** \$259,224  
**Proposed Cost Limit/Sq Ft:** \$177  
**Applicable Cost Limit/Sq Ft:** \$178

Unit Breakdown	
Supp Hsg	0
# of Eff	0
# of 1BR	30
# of 2BR	109
# of 3BR	61
# of 4+ BR	0
<b>Total Units</b>	<b>200</b>

	Income Levels	Rent Levels
	# of Units	# of Units
<=30% AMI	0	0
40% AMI	0	0
50% AMI	0	0
60% AMI	200	200
>60% AMI	0	0
Market	0	0

Income Averaging? TRUE

Extended Use Restriction? 30



2019 Low-Income Housing Tax Credit Application For Reservation

\$/SF = **\$194.26** Credits/SF = **5.41179** Const \$/unit = **\$151,517.7650**

TYPE OF PROJECT GENERAL = 11000; ELDERLY = 12000  
 LOCATION Inner-NVA=100; Outer-NV=200; NWNC=300; Rich=400; Tid=500; Balance=600  
 TYPE OF CONSTRUCTION N C=1; ADPT=2; REHAB(35,000+)=3; REHAB\*(15,000-35,000)=4

**11000**  
**300**  
**1**

\*REHABS LOCATED IN BELTWAY (\$15,000-\$50,000) See Below

	GENERAL		Elderly				
	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
AVG UNIT SIZE	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	0	0	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0
COST PARAMETER	0	0	0	0	0	0	0
PROJECT COST PER UNIT	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	0	0	0	0	0
PROJECT CREDIT PER UNIT	0	0	0	0	0	0	0
COST PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	GENERAL							
	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
AVG UNIT SIZE	0.00	739.26	1,030.78	1,353.01	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	30	109	61	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	195,840	261,120	306,816	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	195,840	261,120	306,816	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	195,840	261,120	306,816	0	0	0	0
PROJECT COST PER UNIT	0	143,605	200,235	262,830	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	16,594	22,125	25,997	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	16,594	22,125	25,997	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	16,594	22,125	25,997	0	0	0	0
PROJECT CREDIT PER UNIT	0	4,001	5,578	7,322	0	0	0	0
COST PER UNIT POINTS	0.00	4.00	12.71	4.37	0.00	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	22.77	81.52	43.82	0.00	0.00	0.00	0.00

TOTAL COST PER UNIT POINTS **21.08**

TOTAL CREDIT PER UNIT POINTS **148.10**

**Cost Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Credit Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Credit Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Cost Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Parameter - low rise	0	195,840	261,120	306,816	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>195,840</b>	<b>261,120</b>	<b>306,816</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Credit Parameter - low rise	0	16,594	22,125	25,997	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Credit Parameter</b>	<b>0</b>	<b>16,594</b>	<b>22,125</b>	<b>25,997</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Northern Virginia Beltway** (Rehab costs \$15,000-\$50,000)

**Cost Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Cost Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Cost Parameter - low rise	0	195,840	261,120	306,816	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>195,840</b>	<b>261,120</b>	<b>306,816</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Cost Parameter - low rise	0	16,594	22,125	25,997	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>16,594</b>	<b>22,125</b>	<b>25,997</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



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2019 Low-Income Housing Tax Credit Application For Reservation

\$/SF = **\$194.26** Credits/SF = **5.41179** Const \$/unit = **\$151,517.77**

TYPE OF PROJECT: GENERAL = 11000; ELDERLY = 12000  
 LOCATION: Inner-NVA=100; Outer-NV=200; NWNC=300; Rich=400; Tid=500; Balance=600  
 TYPE OF CONSTRUCTION: N C=1; ADPT=2; REHAB(35,000+)=3; REHAB\*(10,000-35,000)=4

**11000**  
**300**  
**1**

\*REHABS LOCATED IN BELTWAY (\$10,000-\$50,000) See Below

	GENERAL		Elderly				
	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
AVG UNIT SIZE	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	0	0	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0
COST PARAMETER	0	0	0	0	0	0	0
PROJECT COST PER UNIT	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	0	0	0	0	0
PROJECT CREDIT PER UNIT	0	0	0	0	0	0	0
COST PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	GENERAL							
	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
AVG UNIT SIZE	0.00	739.26	1,030.78	1,353.01	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	30	109	61	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	195,840	261,120	306,816	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	195,840	261,120	306,816	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	195,840	261,120	306,816	0	0	0	0
PROJECT COST PER UNIT	0	143,605	200,235	262,830	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	16,594	22,125	25,997	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	16,594	22,125	25,997	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	16,594	22,125	25,997	0	0	0	0
PROJECT CREDIT PER UNIT	0	4,001	5,578	7,322	0	0	0	0
COST PER UNIT POINTS	0.00	4.00	12.71	4.37	0.00	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	22.77	81.52	43.82	0.00	0.00	0.00	0.00

TOTAL COST PER UNIT POINTS **21.08**

TOTAL CREDIT PER UNIT POINTS **148.10**

**Cost Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Credit Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Credit Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Cost Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Parameter - low rise	0	195,840	261,120	306,816	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>195,840</b>	<b>261,120</b>	<b>306,816</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Credit Parameter - low rise	0	16,594	22,125	25,997	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Credit Parameter</b>	<b>0</b>	<b>16,594</b>	<b>22,125</b>	<b>25,997</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Northern Virginia Beltway** (Rehab costs \$10,000-\$50,000)

**Cost Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - Elderly**

	Supportive Hsg	EFF-E	1 BR-E	2 BR-E	EFF-E-1 ST	1 BR-E-1 ST	2 BR-E-1 ST
Standard Cost Parameter - low rise	0	0	0	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Cost Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Cost Parameter - low rise	0	195,840	261,120	306,816	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>195,840</b>	<b>261,120</b>	<b>306,816</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Credit Parameters - General**

	EFF-G	1 BR-G	2 BR-G	3 BR-G	4 BR-G	2 BR-TH	3 BR-TH	4 BR-TH
Standard Cost Parameter - low rise	0	16,594	22,125	25,997	0	0	0	0
Parameter Adjustment - mid rise	0	0	0	0	0	0	0	0
Parameter Adjustment - high rise	0	0	0	0	0	0	0	0
<b>Adjusted Cost Parameter</b>	<b>0</b>	<b>16,594</b>	<b>22,125</b>	<b>25,997</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



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# Partnership or Operating Agreement

Including chart of ownership structure with percentage of  
interests (**MANDATORY**)

**OPERATING AGREEMENT  
OF  
BWF Palmers Creek, LLC**

THIS OPERATING AGREEMENT (“Agreement”) of BWF Palmers Creek, LLC, a Virginia limited liability company (the “Company”), is effective as of March 21, 2019 between the Company and BWF Palmers Creek MM, LLC as the sole member of the Company (the “Member”).

**RECITALS**

A. The Member has caused the Company to be organized as a Virginia limited liability company in accordance with the Virginia Limited Liability Company Act, § 13.1-1000, et seq., of the Code of Virginia of 1950, as amended and in force from time to time (the “Act”).

B. The undersigned desires to execute this Agreement in order to set forth the terms and conditions under which the management, business, and financial affairs of the Company will be conducted.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby covenants and agrees as follows:

**ARTICLE I  
PURPOSE AND POWERS OF COMPANY**

1.01 Purpose. The Company may engage in any lawful business except as otherwise provided by the laws of the Commonwealth of Virginia.

1.02 Powers. The Company shall have all powers of a limited liability company organized under the Act and not prescribed by the Act, its Articles of Organization, or this Agreement.

**ARTICLE II  
NAME AND ADDRESS OF INITIAL MEMBER**

2.01 Name and Address. The name, address, and initial membership interest of the initial Member is as follows:

<u>Name</u>	<u>Membership Interest</u>
BWF Palmers Creek MM, LLC 2700 South Quincy Street, Suite 500 Arlington, VA 22206	100%

**ARTICLE III**  
**MANAGEMENT**

3.01 In General. The powers of the Company shall be exercised by, or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Manager. Subject to the other provisions of this Agreement, the Manager shall be entitled to make all decisions and take all actions for the Company, including the execution of all documents, agreements, certificates, and other writings in the name of, and on behalf of, the Company. The initial Manager of the Company shall be the sole member.

3.02 Indemnification. The Company shall indemnify, defend, and hold harmless the Member (including its members, officers, directors, agents, employees, and affiliates) to the fullest extent permitted under the Act against any and all liability, damage, loss, cost, or expense (including, without limitation, attorneys' fees) incurred by the Member arising out of any transaction or course of conduct relating to the business and affairs of the Company.

3.03 Elimination of Liability. In any proceeding brought in the right of the Company or by or on behalf of the Members of the Company, the damages assessed against a Member arising out of a single transaction, occurrence, or course of conduct shall not exceed one dollar, unless such member engaged in willful misconduct or a knowing violation of the criminal law.

3.04 Advances. Expenses (including legal fees and expenses) of the Member (including its members, officers, directors, agents, employees, and affiliates) incurred by the Member arising out of any transaction or course of conduct relating to the business and affairs of the Company may be paid by the Company in advance of the final disposition of any proceeding relating thereto.

**ARTICLE IV**  
**CONTRIBUTIONS TO THE COMPANY AND DISTRIBUTIONS**

4.01 Member Capital Contributions. The Member, upon execution of this Agreement, shall have contributed as the Member's initial capital contribution the cash and/or other property set forth on Exhibit A attached hereto.

4.02 Distributions and Allocations. All distributions of cash or other property (except upon the Company's dissolution which shall be governed by the applicable provisions of the Act) and all allocations of income, profits, and loss shall be made 100% to the Member in accordance with his membership interest in the Company.

**ARTICLE V**  
**APPLICABILITY OF THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY ACT**

5.01 Application of the Act. Notwithstanding any other provision of this Agreement, this Company and the Member shall be subject to regulation and supervision by the Authority in accordance with the Virginia Housing Development Authority Act, the Rules and Regulations of the Authority, and the Regulatory Agreement assumed or to be assumed by this limited liability

company and shall be further subject to the exercise by the Authority of the rights and powers conferred on the Authority thereby. Notwithstanding any other provision of this Agreement, the Authority may rely upon the continuing effect of this provision which shall not be amended, altered, waived, supplemented or otherwise changed without the prior written consent of the Authority.

**ARTICLE VI**  
**MISCELLANEOUS PROVISIONS**

6.01 Governing Law. This Agreement shall be construed, enforced, and interpreted in accordance with the laws of the Commonwealth of Virginia without regard to conflicts of law provisions and principles thereof.

6.02 Amendments. No amendment or modification of this Agreement shall be effective unless approved in writing by the Member.

6.03 Construction. Whenever the singular is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

6.04 Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

6.05 Heirs, Successors, and Assigns. Each and all of the covenants, terms, provisions, and agreements herein contained shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors, and assigns.

6.06 Creditors. None of the provisions of this Agreement shall be for the benefit of, or enforceable by any creditor of, the Company or the Member.

The undersigned hereby agrees, acknowledges, and certifies that the foregoing constitutes the sole and entire Operating Agreement of the Company, effective as of the date first written above.

**SOLE MEMBER:**

BWF Palmers Creek MM, LLC

By: BWF Manager, LLC, its Manager  
a Virginia limited liability company

DocuSigned by:  
By:   
E4215586484C4F7...  
Dwight D. Dunton, III, Manager

**EXHIBIT A**

**Initial Capital Contribution of the Member**

<b>Members</b>	<b>Cash or Property Contributed</b>	<b>Amount</b>
BWF Palmers Creek MM, LLC,	\$100	\$ 100
<b>TOTAL</b>		<b>\$ 100</b>

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**OPERATING AGREEMENT**  
**OF**  
**BWF PALMERS CREEK MM LLC**

**March 21, 2019**

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**OPERATING AGREEMENT  
OF  
BWF PALMERS CREEK MM LLC**

THIS OPERATING AGREEMENT, is made and entered into as of March 20, 2019, by Bonaventure Wealth Fund, LLC, a Virginia limited liability company, the sole member of BWF Palmers Creek MM LLC, a Virginia limited liability company, to set forth the terms and conditions on which the management, business and affairs of the Company shall be conducted.

**SECTION 1  
ORGANIZATIONAL MATTERS**

**1.01 Formation.** The Company was formed as a Virginia limited liability company under the Act on March 21, 2019. The rights and obligations of the Member shall be as provided in the Act, except as otherwise expressly provided herein. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern and in the event of any inconsistency between any items and conditions contained in this Agreement and any mandatory provisions of the Act, the terms and conditions of the Act shall govern.

**1.02 Name.** The name of the Company shall be BWF Palmers Creek MM LLC.

**1.03 Principal Office.** The principal office of the Company is 2700 South Quincy Street, Suite 500, Arlington, VA 22206, or such other place as the Managers may from time to time designate. The Company may have other offices at any place or places as may be determined by the Managers.

**1.04 Purpose.** The primary purpose of the Company shall be to acquire a membership interest in BWF Palmers Creek, LLC, which will own and operate multi-resident dwelling development. The Company may engage in any and all other lawful activities as may be necessary, incidental or convenient to carrying out the business of the Company as contemplated by this Agreement. The Company may also pursue any other lawful activity that is approved by the Member.

**1.05 Certificate of Formation; Filings.** The Company executed and filed Articles of Organization with the Virginia State Corporation Commission as required by the Act. Any Manager may execute and file any amendments to the Articles of Organization authorized by the Member from time to time in a form prescribed by the Act. Any Manager also shall cause to be made, on behalf of the Company, such additional filings and recordings as the Manager shall deem necessary or advisable.

**1.06 Fictitious Business Name Statements; Qualification in Other States.** Following the execution of this Agreement, fictitious business name statements and qualifications in various states may be filed and published as deemed necessary by the Manager.

**1.07 Registered Office and Registered Agent.** The Company shall continuously maintain a registered office and a designated and duly qualified agent for service of process on the Company in the Commonwealth of Virginia. As of the date of this Agreement, the address of the registered office is 2700 S Quincy Street, Suite 500, Arlington, VA 22206, and its registered agent is Dwight D. Dunton III. The registered office and registered agent may be changed from time to time by action of the Member.

**1.08 Term.** The Company commenced on March 21, 2019, and shall continue until terminated pursuant to this Agreement.

## **SECTION 2** **DEFINITIONS**

The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein):

(a) “Act” shall mean the Virginia Limited Liability Company Act, Va. Code Section 13.1-1000 et seq., as amended and in force from time to time.

(b) “Affiliate” means, with respect to the Member or any Manager or employee of the Company, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Member, Manager or employee and shall include any relative or spouse of such Member, Manager or employee or any relative of such Member’s, Manager’s or employee’s spouse. As used in the foregoing sentence, the term “control” means possession, directly or indirectly, of the power to direct or cause a direction of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

(c) “Articles” shall mean the Articles of Organization of the Company as filed and amended with the State Corporation Commission of Virginia from time to time.

(d) “Capital Contribution” shall mean any contribution to the capital of the Company by the Member in cash, property or services, or a binding obligation to contribute cash, property or services, whenever made.

(e) “Code” shall mean the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent superseding federal revenue laws.

(f) “Company” shall mean BWF Palmers Creek MM LLC, a Virginia limited liability company, as set forth in the Certificate of Organization issued by the Virginia State Corporation Commission on March 21, 2019.

(g) “Entity” shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or other association.

(h) “Fiscal Year” shall mean the Company’s fiscal year, which shall be the calendar year.

(i) “Manager” shall mean a manager as defined in the Act and as specified in Section 3.

(j) “Member” shall mean Bonaventure Wealth Fund, LLC.

(k) “Operating Agreement” or “Agreement” shall mean this Operating Agreement as originally executed and as amended from time to time.

(l) “Person” shall mean any natural person or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

### **SECTION 3** **MANAGEMENT**

**3.01 Managers.** The Company shall be managed under the direction of at least one (1) and not more than two (2) Managers, who shall be called individually a “Manager,” and collectively, the “Managers.” The Managers shall be appointed and may be removed at any time by the Member. The initial Manager of the Company shall be BWF Manager, LLC.

#### **3.02 General Powers of the Managers.**

(a) Except as otherwise limited in this Operating Agreement, the Managers shall have exclusive right to manage the Company and to make all decisions regarding the business of the Company. The Managers shall carry out the policies, directions, orders and resolutions of the Member in the manner described in this Operating Agreement and as authorized and directed by the Member from time to time. To the extent not inconsistent with the Act, the Articles or the express provisions of this Operating Agreement, all of the Managers shall have the same rights, powers and authority with respect to the Company. The Managers may delegate prescribed functions to any employee, agent or consultant.

(b) The Managers are granted the right, power and authority to do in the name of, and on behalf of, the Company all things that, in his sole judgment, are necessary, proper or desirable to carry out the purposes of the Company, including, but not limited to, the right, power and authority to:

(i) Enter into, make and perform contracts, agreements and other undertakings binding the Company that may be necessary, appropriate or advisable in furtherance of the purposes of the Company.

(ii) Open and maintain bank accounts, investment accounts and other arrangements, draw checks and other orders for the payment of money, and designate individuals with authority to sign or give instructions with respect to those accounts and arrangements;

provided, that Company funds shall not be commingled with funds from other sources and shall be used solely for the benefit of the Company.

(iii) Collect funds due to the Company.

(iv) Acquire, utilize for the Company's purposes, maintain and dispose of any assets of the Company.

(v) Pay debts and obligations of the Company, to the extent that funds of the Company are available therefor.

(vi) Borrow money or otherwise commit the credit of the Company for Company activities, and voluntarily prepay or extend any such borrowings.

(vii) Employ from time to time persons, firms or corporations for the operation and management of the Company, including, without limitation, managing agents, contractors, subcontractors, architects, engineers, laborers, suppliers, accountants and attorneys, on such terms and for such compensation as the Managers shall determine, notwithstanding the fact that the Managers or the Member may have a financial interest in such firms or corporations.

(viii) Make elections available to the Company under the Code.

(ix) Obtain general liability, property and other insurance for the Company, as the Managers deem proper.

(x) Take such actions as may be directed by the Member in furtherance of their approval of any matter set forth in Section 4 hereof.

(xi) Do and perform all such things and execute, acknowledge and deliver any and all such instruments as may be in furtherance of the Company's purposes and necessary and appropriate to the conduct of its business.

(c) The Managers may delegate to one (1) or more of their number the authority to execute any documents or take any other actions deemed necessary or desirable in furtherance of any action that they have authorized on behalf of the Company as provided in Section 3 hereof. Unless otherwise expressly provided by the Act, the Articles, or the terms of this Operating Agreement, the vote, approval or consent of a majority of the Managers, determined on a per capita basis, shall be necessary and sufficient for the Managers to take any action on behalf of the Company that the Managers are authorized to take pursuant to the Act, the Articles or this Operating Agreement.

(d) All actions taken by the Managers on behalf of the Company from the date of its organization to the execution of this Agreement are ratified and confirmed.

**3.03 Tenure.** A Manager shall hold office until his death, resignation, disqualification or removal.

**3.04 Compensation.** The compensation, if any, of the Managers shall be fixed from time to time by the Member. The Managers shall be entitled to reimbursement for expenses incurred by them in performing their duties, according to the policies set by the Member from time to time.

**3.05 Managers Have No Exclusive Duty to Company.** Unless otherwise expressly provided hereunder or under any other agreement entered into between the Company and such person, no Manager shall be required to manage the Company as his sole and exclusive function, and he may have other interests and activities in addition to those relating to the Company, and neither the Company nor the Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of such Manager or to the income or proceeds derived therefrom.

#### **SECTION 4**

#### **LIMITATION OF LIABILITY; INDEMNIFICATION**

**4.01 Limitation of Liability of Managers.** In any proceeding brought by or in the right of the Company or brought by or on behalf of the Member, a Manager (in his capacity as a Manager) or any of its Affiliates shall not be liable to the Company or its Member for any monetary damages arising out of any transaction, occurrence or course of conduct, unless in such proceeding the Manager or any of its Affiliates was adjudged to have engaged in willful misconduct or a knowing violation of the criminal law.

**4.02 Indemnity of Managers.** The Managers shall be indemnified by the Company under the following circumstances and in the manner and to the extent indicated:

(a) Every Person, and his heirs, executors and administrators, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding of any kind, whether civil, criminal, administrative, arbitratative or investigative, or was or is the subject of any claim, and whether or not by or in the right of the Company, by reason of his being or having been a Manager, or by reason of his serving or having served at the request of the Company as a director, officer, manager, employee or agent of another Entity, or at the request of the Company in any capacity that under Federal law regulating employee benefit plans would or might constitute him a fiduciary with respect to any such plan, whether or not such plan is or was for employees of the Company, shall be indemnified by the Company against expenses (including attorneys' fees), judgments, fines, penalties, awards, costs, amounts paid in settlement and liabilities of all kinds, actually and reasonably incurred by him in connection with, or resulting from, such action, suit, proceeding or claim, if he acted in good faith and in the manner he reasonably believed to be in, or not opposed to, the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, provided that no indemnification shall be made in respect of any claim, issue or matter as to which he shall have been adjudicated to be liable to the Company for willful misconduct or a knowing violation of the criminal law in the performance of his duty to the Company unless, and only to the extent, that the court in which such action, suit or proceeding was brought shall determine upon application that, despite the adjudication of

liability but in view of all circumstances of the case, he is fairly and reasonably entitled to indemnity. The termination of any such action, suit or proceeding by judgment, order or conviction, or upon a plea of nolo contendere or its equivalent, or by settlement, shall not of itself create a presumption that any such Person did not act in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Company.

(b) Any indemnification under Section 4.02(a) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of such Person is proper in the circumstances because the Manager had met the applicable standard of conduct set forth in such paragraph. Such determination may be made either (i) by the Managers by a majority vote of a quorum consisting of Managers who were not a party to such action, suit or proceeding, or (ii) if such a quorum is not obtainable or, even if obtainable, if a quorum of disinterested Managers so directs, by independent legal counsel in a written opinion, or (iii) by the Member.

(c) Reasonable expenses (including attorneys' fees) incurred by or in respect of any such Person in connection with any such action, suit or proceeding, whether civil, criminal, administrative, arbitrate or investigative, shall be paid by the Company in advance of the final disposition thereof upon receipt of an undertaking by, or on behalf of, such Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Company.

(d) The Managers of the Company shall have the power, generally and in specific cases, to indemnify their employees and agents to the same extent as provided in this Section with respect to its Managers.

(e) The provisions of this Section are in addition to, and not in substitution for, any other right to indemnity to which any Person who is or may be indemnified by or pursuant to this Section may otherwise be entitled, and to the powers otherwise accorded by law to the Company to indemnify any such Person and to purchase and maintain insurance on behalf of any such Person against any liability asserted against or incurred by him in any capacity referred to in this Section or arising from his status as serving or having served in any such capacity (whether or not the Company would have the power to indemnify against such liability).

(f) If any provision of this Section shall be adjudicated invalid or unenforceable, such adjudication shall not be deemed to invalidate or otherwise affect any other provision hereof or any power of indemnity which the Company may have under the laws of the Commonwealth of Virginia.

(g) No amendment or repeal of this Section shall limit or eliminate the right to indemnification provided hereunder with respect to acts or omissions occurring prior to such amendment or repeal.

**4.03 No Personal Liability to Member.** Notwithstanding any provision of Section 4.02 above, the indemnification provided in Section 4.02 shall in no event cause the Member to

incur any liability to the Company beyond its total Capital Contributions plus its share of any undistributed profits of the Company, nor shall it result in any liability of the Member to any third party.

**SECTION 5**  
**ACTION BY THE MEMBER**

**5.01 Meetings.** Meetings of the Member, for any purpose or purposes, unless otherwise prescribed by statute, may be called by a majority of the Managers or the Member at any time.

**5.02 Action by Consent.** Any action required or permitted to be taken at a meeting of Member may be taken without a meeting if one or more written consents to such action are signed by the Member. Action taken under this Section is effective when the Member signs the consent or consents, unless the consent or consents specifies a different effective date.

**SECTION 6**  
**CONTRIBUTIONS TO THE COMPANY AND DISTRIBUTIONS**

**6.01 Member's Capital Contributions.**

(a) Initial Capital Contribution. The Member shall make a Capital Contribution of \$100 as its Initial Capital Contribution.

(b) Additional Capital Contributions. The Member shall not be required to make any further Capital Contributions beyond those set forth in Section 6.01(a) above.

(c) Loans. The Managers may endeavor to obtain a loan or loans to the Company, from time to time, for necessary capital on reasonable terms, in order to finance the ownership and operation of the business of the Company.

(d) Loans to Company by Member. Nothing in this Agreement shall prevent the Member from making secured or unsecured loans to the Company by agreement with the Company in accordance with the terms of this Agreement.

**6.02 Distributions.** Distributions shall be made by the Company to the Member at such times and in such amounts as the Member shall determine in its sole discretion; provided, however, the Company's obligation, and the Manager's authority, to make any distribution is subject to the restrictions governing distributions under the Act and such other pertinent governmental restrictions as are now and may hereafter become effective. Currently, among other prohibitions, the Act prohibits the Company from making a distribution to the extent that, after giving effect to the distribution, liabilities of the Company exceed the fair value of the assets of the Company.

**SECTION 7**  
**TAX MATTERS**

**7.01 Tax Status.** It is intended that the Company be treated as a single member entity within the meaning of Section 301.7701-2(c)(2) of the Treasury Regulations and, accordingly, disregarded as a separate entity for tax purposes.

## **SECTION 8**

### **DISSOLUTION AND TERMINATION**

**8.01 Events of Dissolution.** The Company shall be dissolved upon the occurrence of any of the following events:

- (a) The determination in writing of the Member;
- (b) The sale, transfer or assignment of substantially all of the assets of the Company;
- (c) The adjudication of the Company as insolvent within the meaning of insolvency in either bankruptcy or equity proceedings, or the filing of an involuntary petition in bankruptcy against the Company (which is not dismissed within ninety (90) days), or the filing against the Company of a petition for reorganization under the federal bankruptcy code or any state statute (which is not dismissed within ninety (90) days), or a general assignment by the Company for the benefit of creditors, or the voluntary claim (by the Company) that it is insolvent under any provisions of the federal bankruptcy code (or any state insolvency statutes), or the appointment for the Company of a temporary or permanent receiver, trustee, custodian or sequestrator, and such receiver, trustee, custodian or sequestrator is not dismissed within ninety (90) days; or
- (d) As otherwise required by Virginia law.

**8.02 Liquidation.** Upon the dissolution of the Company, it shall wind up its affairs by either or a combination of both of the following methods as the Managers (or if there are no Managers, such Person or Persons appointed by the Member) shall in their sole discretion determine:

- (a) Selling the Company's assets and, after paying the Company's liabilities or reserving sufficient funds for such liabilities, distributing the net proceeds to the Member in satisfaction of its interest in the Company; and/or,
- (b) Distributing the Company's assets to the Member in kind with the Member accepting the Company's assets, subject to its liabilities, in satisfaction of its interest in the Company.

**8.03 Orderly Liquidation.** A reasonable time as determined by the Managers (or the Person or Persons carrying out the liquidation) not to exceed eighteen (18) months shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to the creditors so as to minimize any losses attendant upon dissolution.



**8.04 Distributions.** Upon dissolution, the Company's assets (including any cash on hand) shall be distributed in the following order and in accordance with the following priorities:

(a) First, to the payment of the debts and liabilities of the Company (including, but not limited to, loans made by the Member or Managers) and the expenses of liquidation, including a sales commission to the selling agent, if any; then

(b) Second, to the setting up of any reserves which the Managers (or the Person or Persons carrying out the liquidation) shall deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company. Said reserves shall be paid over to a bank or an attorney at law as escrow agent to be held for the purpose of disbursing such reserves in payment of any of the aforementioned contingencies. At the expiration of such period as the Managers (or the Person or Persons carrying out the liquidation) shall deem advisable, but in no event to exceed eighteen (18) months, the Managers shall distribute the balance thereof in the manner provided in the following subparagraph; then

(c) Third, to the Member.

**8.05 Certificate of Cancellation.**

(a) Within a reasonable time following the completion of the liquidation of the Company, there shall be supplied to the Member a statement which shall set forth the assets and the liabilities of the Company as of the date of complete liquidation. Upon completion of the liquidation of the Company and the distribution of all the Company's assets, the Company shall terminate, and the Member shall execute and record a Certificate of Cancellation of the Company, as well as any and all other documents required to effectuate the dissolution and termination of the Company.

(b) Upon the issuance of the filing of the Certificate of Cancellation, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act. The Managers shall thereafter be trustees for the Member and creditors of the Company and as such shall have authority to distribute any Company property discovered after dissolution, convey real estate, if any, and take such other action as may be necessary on behalf of and in the name of the Company.

**SECTION 9**  
**MISCELLANEOUS PROVISIONS**

**9.01 Bank Accounts.** The Company shall maintain such bank accounts as the Managers may determine to be appropriate from time to time.

**9.02 Books of Account and Records.** Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions and other matters relating to the Company in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. The books and records shall at all times be maintained at the principal office of the Company,

which initially shall be located at 2700 South Quincy Street, Suite 500, Arlington, VA 22206, and shall be open to inspection and examination of the Member or its duly authorized representatives during reasonable business hours.

**9.03 Application of Virginia Law.** This Operating Agreement, and the interpretation hereof, shall be governed exclusively by its terms and by the laws of the Commonwealth of Virginia, without reference to its choice of law provisions, and specifically the Act.

**9.04 Amendments.** This Operating Agreement may be amended by the Member at any time.

**9.05 Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

**9.06 Headings.** The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

**9.07 Waivers.** The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Operating Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

**9.08 Rights and Remedies Cumulative.** The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

**9.09 Severability.** If any provision of this Operating Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

**9.10 Heirs, Successors and Assigns.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

**9.11 Creditors.** None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditor of the Company. The specific intent of the undersigned is that there shall be no third-party beneficiaries of this Agreement.

**9.12 Counterparts.** This Operating Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

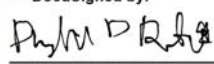
**9.13 Entire Agreement.** This Agreement sets forth all of the promises, agreements, conditions and understandings between the parties respecting the subject matter hereof and supersedes all negotiations, conversations, discussions, correspondence, memoranda and agreements between the parties concerning such subject matter.

[Signatures on following page]

The undersigned, being the sole Member of the Company, hereby agrees, acknowledges and certifies that the foregoing Operating Agreement constitutes the sole and entire Operating Agreement of BWF Palmers Creek MM LLC, adopted as of the date first written above.

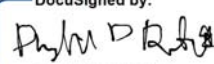
MEMBER:

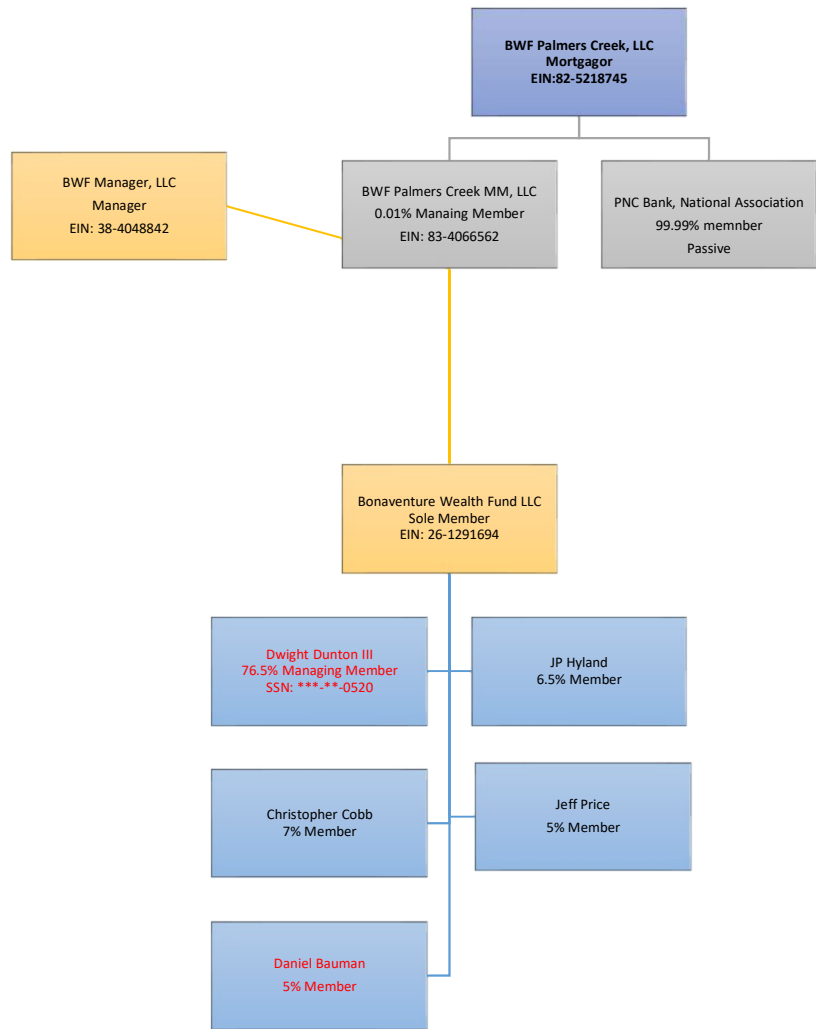
Bonaventure Wealth Fund, LLC, a Virginia limited liability company

DocuSigned by:  
By:   
E4215588484C4F7...  
Dwight D. Dunton, III  
Manager

MANAGER:

BWF Manager, LLC, a Virginia limited liability company

DocuSigned by:  
By:   
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Dwight D. Dunton, III  
Manager



TAB A

LPA

Developer Fee Agreement

## DEVELOPMENT COOPERATION AGREEMENT

**THIS DEVELOPMENT COOPERATION AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between PALMERS CREEK, LLC, (“Palmers”) a Virginia limited liability company, and MASSAPONAX LAND COMPANY, LLC, (“Massaponax”) a Virginia limited liability company.

### R E C I T A L S:

A. Palmers and Massaponax own adjacent parcels of real estate in the Massaponax area of Spotsylvania County, Virginia.

B. Palmers desires to proceed with the development of its land and Massaponax has agreed to assist Palmers with its development efforts.

C. The parties have agreed upon a scheme of joint development which involves:

- Palmers must obtain a rezoning of its property – the provisions of this Agreement are contingent upon a successful rezoning.
- Palmers will construct certain infrastructure which will be shared by Palmers and Massaponax.
- Palmers and Massaponax will swap land as herein described.
- Massaponax and Palmers will grant and release various easements to each other to facilitate the development of their respective properties.

D. The purpose of this Agreement is to set forth the terms of the joint development scheme.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Palmers and Massaponax do hereby agree as follows:

## 1. DEFINITIONS.

The following capitalized terms whenever used in this Agreement shall have the meanings set forth in this Section 1.

- (a) “**Agreement**” means this Development Cooperation Agreement.
- (b) “**Approved Rezoning**” means the zoning map amendment by the County of the Palmers Property, Palmers Addition and the Massaponax Addition for the Proposed Project, once the amendment has been approved by way of a duly adopted resolution of the Board of Supervisors of the County with the appeal period from such adoption of such resolution having expired.
- (c) “**Approved Rezoning Date**” means that date when the appeal period for the rezoning resolution expires.
- (d) “**BLA Deed**” means the deed of conveyance by which the parties execute the adjustments shown in the BLA Plat and in which (1) Palmers shall convey the Massaponax Addition to Massaponax, free and clear of all liens and encumbrances, by Special Warranty, and (2) Massaponax shall convey the Palmers Addition to Palmers, free and clear of all encumbrances, by Special Warranty, and (3) Massaponax shall release all of its interest in the 50-foot ingress/egress easement established by the instruments recorded in Deed Book 503 at page 589, Deed Book 577 at page 433 and as further reserved to Massaponax by the instrument recorded as Instrument No. 201100005018, all among the County land records.
- (e) “**BLA Plat**” means the plat which shows the adjustments of the boundary line between the Massaponax Property and the Palmers Property, by which the Massaponax Addition becomes a part of TM Parcel 49-A-114A, and the Palmers Addition becomes a part of TM Parcel 49-A-112 and/or 49-A-114.
- (f) “**Contract Assignment**” means a collateral assignment of the Site Work Contract under which Palmers assigns all of its interests in the Site Work Contract to Massaponax, free and clear of all liens and encumbrances.
- (g) “**County**” means Spotsylvania County, Virginia.
- (h) “**Deed of Dedication and Easement**” means the deed, in County approved form, which conveys to the County the following: fee simple title of the real estate under the Entrance



Road, easements for the Sanitary Sewer Easements, easements for the Sewer Connections, easements for the Water Connections, easements for SWM Facility 1, easements for SWM Facility 2, easements for the conveyance of stormwater to the stormwater management facilities, and any other easement required by the County or VDOT for the proper development of the Shared Infrastructure. Although the Traffic Signal is not part of the Shared Infrastructure, and may not be installed until a later date, if the parties are aware at the time of the approval of the Site Plan of additional fee simple or easements which will be required for the installation of the Traffic Signal, then such dedications and easements shall be included in this deed.

- (i) **“Development Plan”** means the plat attached to this agreement as Exhibit A entitled “Palmer’s Creek Development Plan Spotsylvania County, VA 08-16-16” (Sheet 1) and entitled “Palmer’s Creek Development Plan With Preliminary Water & Sanitary Sewer Spotsylvania County, VA 08-16-16” (Sheet 2) prepared by Fairbanks & Franklin which illustrates the proposed future development of the Palmers Property as well as the individual components of the Shared Infrastructure.
- (j) **“Engineer”** means the firm of Fairbanks and Franklin, at 1005 Mahone St., Fredericksburg, VA 22401, 540-899-3700, or such other engineering firm as agreed upon by the parties.
- (k) **“Entrance Road”** means the land and improvements required to create a public road from Route 1 into the Palmers Property and Massaponax Property in the location identified on the Development Plan as “Proposed Right of Way.” The Entrance Road shall include all turn lanes (on Route 1 and the entrance road) and all easements required to construct the road.
- (l) **“Escrow Agent”** means Stonewall Title & Escrow, Inc., at 9300 Grant Avenue, Suite 102, Manassas, VA 20110.
- (m) **“Escrow Agreement”** shall be a contract between Palmers, Massaponax and the Escrow Agent which shall provide that the Escrow Agent shall hold, in escrow, the Private Letter of Credit, Plans Assignment and Contract Assignment. The agreement shall provide, *inter alia*, that in the event that Palmer’s fails to meet the deadlines set forth in **Section 5** of this Agreement, then after thirty (30) days advance written notice and opportunity to cure

from Massaponax to Palmer's, with a copy to Escrow Agent, that Massaponax shall have the right to demand that Escrow Agent release the Letter of Credit, Plans Assignment and Contract Assignment to Massaponax.

- (n) **"Final Acceptance of Shared Infrastructure"** means when all of the Shared Infrastructure has been completed and has been accepted by the County and/or VDOT and the Public Letter of Credit has been fully released.
- (o) **"Final Acceptance of Traffic Signal"** means when all the Traffic Signal has been completed and has been accepted by the County and VDOT and all sureties required for the construction of the Traffic Signal have been fully released.
- (p) **"Massaponax"** means Massaponax Land Company, LLC, a Virginia limited liability company.
- (q) **"Massaponax Addition"** means that portion of the Palmers Property which Palmers shall convey to Massaponax which consists of 0.654 acres and is labeled "0.654 AC to Parcel 49-A-114A" on the Development Plan.
- (r) **"Massaponax Adjacent Property"** means the real estate known as Spotsylvania County Tax Map Parcel 49-A-115 which abuts the Massaponax Property and is owned by JPI-Martins Manor, LLC which is associated with Massaponax.
- (s) **"Massaponax Property"** means the real estate known as Spotsylvania County Tax Map Parcel 49-A-114A which is owned by Massaponax.
- (t) **"Memorandum"** mean a Memorandum of this Agreement in the form attached to this Agreement as **Exhibit C** which shall be executed and recorded at closing. Upon its recordation, each party shall insure that the Memorandum shall be superior in priority to all deeds of trusts and liens.
- (u) **"Palmers"** means Palmers Creek, LLC, a Virginia limited liability company.
- (v) **"Palmers Addition"** means that portion of the Massaponax Property which Massaponax will convey to Palmers which consists of 4.61 acres of land labeled "4.61 AC To Parcel 49-A-114A" on the Development Plan.
- (w) **"Palmers Property"** means the real estate known as Spotsylvania County Tax Map Parcels 49-A-112 and 49-A-114 which is owned by Palmers.



- (x) **“Plans Assignment”** means a collateral assignment of the Site Plan under which Palmers assigns all of its interests in the Site Plan to Massaponax, free and clear of all liens and encumbrances.
- (y) **“Private Letter of Credit”** means a letter of credit in favor of Massaponax from an institution which would be eligible to issue the Public Letter of Credit, to secure the construction of the Shared Infrastructure and its acceptance by VDOT and the County. The Private Letter of Credit shall be of an amount equal to one hundred ten percent (110%) of the price for the installation of the Shared Infrastructure set forth in the Site Work Contract. The Private Letter of Credit shall provide that as the work to install the Shared Infrastructure progresses, that Palmers shall have the right to reduce the amount of the Letter of Credit to no less than ten per cent (10.0%) of the cost to complete the Shared Infrastructure, as evidenced by progress payments made to the site work contractor pursuant to the Site Work Contract, with releases of liens from the contractor accompanied by certification by the Engineer that the work has been completed. In the event that Massaponax exercises its rights under the Private Letter of Credit, then (i) Massaponax shall proceed to complete the uncompleted portion of the Shared Infrastructure in accordance with Palmers’ responsibilities under this Agreement, (ii) Massaponax shall be entitled to an administrative fee equal to ten percent (10%) of all work performed under Massaponax’ management of the installation of the Shared Infrastructure, and (iii) Palmers shall, upon demand, reimburse Massaponax for all reasonable costs (including its administrative fee) incurred to complete the work called for in this Agreement which exceed the amount available to Massaponax to draw under the Private Letter of Credit.
- (z) **“Proposed Project”** means the overall development project that Palmers intends to build on the Palmers Property (less the Massaponax Addition) and Palmers Addition, to include at least 164 townhouses, and/or apartments and two commercial pad sites together with the Shared Infrastructure.
- (aa) **“Public Letter of Credit”** means the collective sureties to be required by the County, and/or VDOT, prior to the construction of the Shared Infrastructure, which shall be in a form satisfactory to the applicable agency.

- (bb) “**Release of Memorandum**” means a document which releases the Memorandum, to be in the form attached to this Agreement as **Exhibit D.**,
- (cc) “**Sanitary Sewer Easement**” shall mean the easement across the Massaponax Property for a public sewer main from the existing County sanitary sewer mains to the Palmers Property, labeled as “Prop. Sanitary Esmt” on that certain plat attached hereto as Exhibit B entitled “Exhibit Plat Palmers Creek, LLC Massaponax Land Co, LLC Courtland District Spotsylvania Co., VA” dated April 21, 2016 prepared by Webb and Associates. .
- (dd) “**Sewer Connections**” shall mean the public sanitary sewer mains which are to be installed from the existing County owned mains to the property line of the Massaponax Property and Massaponax Addition, as generally shown on the Development Plan as “Sewer Connection.”
- (ee) “**Shared Infrastructure**” means the Entrance Road, Water Connections, Sewer Connections, SWM Facility 1 and, if applicable, the SWM Facility 2. Shared Infrastructure excludes the Traffic Signal.
- (ff) “**Site Plan**” means the set of construction plans and all other plans, applications and permits required to construct the Shared Infrastructure.
- (gg) “**Site Work Contract**” shall mean the executed, bona-fide agreement between Palmers and a properly licensed and insured contractor for the installation of the Shared Infrastructure.
- (hh) “**Substantial Completion**” means that the work (and each of its components) has been sufficiently installed such that Palmers and Massaponax can utilize the work for its intended purpose, and each component of the work has been inspected and approved by the County and/VDOT, with only punchlist items remaining for total completion and acceptance by the County and/or VDOT.
- (ii) “**SWM Agreement 1**” means the contract required by the County for the future maintenance of SWM Facility 1.
- (jj) “**SWM Agreement 2**” means the contract required by the County for the future maintenance of SWM Facility 2.



- (kk) “**SWM Facility 1**” means the storm water management facility which is to be located on the Palmers Addition in the location shown on the Development Plan as “SWM Facility 1.”
- (ll) “**SWM Facility 2**” means the optional storm water management facility which is to be located on the Massaponax Property in the location shown on the Development Plan as “SWM Facility 2.”
- (mm) “**Traffic Signal**” means the proposed traffic signal at the intersection of the Entrance Road and Route 1, in the location shown on the Development Plan as “Proposed Traffic Signal.” Traffic Signal is not part of the Shared Infrastructure.
- (nn) “**VDOT**” shall mean the Virginia Department of Transportation.
- (oo) “**Water Connections**” shall mean the public water mains which are to be installed from the existing County owned mains to the property line of the Massaponax Property and Massaponax Addition, as generally shown on the Development Plan as “Water Connection.”

## **2. REZONING.**

(a) **Contingency.** In the event that the Approved Rezoning has not been obtained within twenty-four (24) months from the full execution of this Agreement, Massaponax shall have the right to terminate this Agreement upon 30-days advance written notice to Palmers.

(b) **Rezoning Process.** As soon as practical after the full execution of this Agreement, Palmers, together with the cooperation of Massaponax as may be necessary or required, shall file an application with the appropriate authorities of the County for the purpose of rezoning a portion of the Palmers Property, less and except the Massaponax Addition, but including the Palmers Addition if necessary, to a residential category which shall permit the development of the Proposed Project. If required, Massaponax agrees to execute any and all applications for such rezoning and any and all proffer statements which may be required in order to obtain such rezoning. Any proffered conditions applicable to the Massaponax Addition or the Palmers Addition shall not restrict the use of the Massaponax Property, the Massaponax Addition or the Palmers Addition other than as set forth on Exhibit A. Any documents to be signed by Massaponax shall be subject to the approval of Massaponax, not to be unreasonably

withheld, conditioned or delayed. All costs and expenses of the rezoning shall be borne by Palmers.

### 3. SITE PLAN.

(a) **Site Plan and Project Documents.** Palmers shall, at its sole cost and expense, and with the cooperation of Massaponax, create the various documents required to complete the various transactions foreseen in this Agreement, including but not limited to: Site Plan, Deed of Dedication and Easement, BLA Plat, BLA Deed, SWM Agreement 1, SWM Agreement 2, Subdivision Agreement, Public Letter of Credit, Private Letter of Credit, Site Work Contract, Plans Assignment, Contract Assignment, and Escrow Agreement. Each of these documents shall be subject to the approval of Massaponax, which approval shall not be unreasonably withheld.

(b) **Site Plan Approval.** Within sixty (60) days of the Approved Rezoning Date, Palmers shall file with the County an application for the approval of the Site Plan. Palmers shall obtain Site Plan Approval within six (6) months of the filing of the site plan application.

(c) **Site Plan Requirements.** The Site Plan and other project documents shall take into account the following design considerations:

- i. **Entrance Road.** The Entrance Road shall be in the general location shown on the Development Plan; however, the specific design and location shall be subject to the detailed design constraints of VDOT and the County. Accordingly, the final location of the Entrance Road may differ from that shown on the Development Plan. If the Entrance Road requires temporary or permanent easements from third parties, then Palmers shall be solely responsible for the acquisition of such easements.
- ii. **SWM Facilities.** The Shared Infrastructure shall include sufficient stormwater management facilities to accommodate the total post-development runoff from the Palmers Property, Massaponax Property and Massaponax Adjacent Property. SWM Facility 1 and SWM Facility 2, if applicable will be designed assuming an impervious cover of seventy per cent (70.0%) for the Massaponax Property, Massaponax Addition and the Massaponax Adjacent Property. The specific design and location of SWM Facility 1 and SWM Facility 2 shall be subject to the



detailed engineering and approval by the County, so their final locations may differ from the locations shown on the Development Plan.

01. SWM Facility 1. SWM Facility 1 shall be the primary stormwater management facility. SWM Facility 1 shall be located on the Palmers Addition and shall include the installation of all methods of conveyance of the stormwater from the facility to the property line of the Massaponax Property. Palmers shall bear all costs of maintaining, repairing and replacing the facility. Massaponax shall not permit or allow any hazardous materials into the facility which would damage the facility. Palmers shall execute the SWM Agreement 1 with the County.
02. SWM Facility 2. SWM Facility 2 shall be the secondary stormwater management facility to be built if SWM Facility 1 cannot be designed to accommodate all of the post-development runoff of Palmers Property, Massaponax Property and Massaponax Adjacent Property. SWM Facility 2 shall be located on the Massaponax Property. Massaponax shall bear the costs of maintaining, repairing and replacing the facility, once the facility has been completed and accepted by the County. Massaponax shall enter into the SWM Agreement 2 with the County.
- iii. Sanitary Sewer. The Shared Infrastructure shall include the installation of public sanitary sewer mains from the existing County sewer mains to serve the Palmers Property, Massaponax Addition, and the Massaponax Property. The Sanitary Sewer Easement is intended to accommodate a public sanitary sewer main which serves those portions of the Palmers Property, Massaponax Addition, and Massaponax Property which can be served by gravity sewer to the County sewer main. The sanitary sewer main may be sized to serve other parcels as well, as determined by Palmers. The sanitary sewer shall include the Sewer Connections, which connects the Massaponax Property and Massaponax Addition to the existing public sewer mains. The specific location of the Sanitary Sewer Easement and the Sewer Connections as well as the number of Sewer Connections shall be subject to the detailed engineering, which shall consider the

avoidance of regulated wetland areas to minimize the costs of mitigation, and approval by the County, so its final location(s) may differ from the locations shown on the Development Plan.

- iv. Water Connections. The Shared Infrastructure shall include the installation of public water mains from the existing County water mains to serve the Palmers Property, Massaponax Addition, and the Massaponax Property. The water main may be sized to serve other parcels as well, as determined by Palmers. The water portion of the Shared Infrastructure shall include the Water Connections, which connects the Massaponax Property and Massaponax Addition to the existing public water mains. The specific location of the Water Connections as well as the number of Water Connections shall be subject to the detailed engineering and approval by the County, so its final location may differ from the locations shown on the Development Plan.

#### **4. CLOSING.**

Within sixty (60) days from County approval of the Site Plan, Massaponax and Palmers shall have a closing. Prior to the closing, Palmers shall have posted the Public Letter of Credit with the County and/or VDOT and shall have entered into the Site Work Contract. At closing, Palmers shall deliver the Private Letter of Credit, Escrow Agreement, Plans Assignment and Contract Assignment to the Escrow Agent. At closing, each party shall execute the BLA Plat, BLA Deed and Deed of Dedication and Easements, Memorandum and Release of Memorandum. The Escrow Agent shall promptly record the BLA Plat, BLA Deed, Deed of Dedication and the Memorandum, each of which shall be superior to any deeds of trusts or liens. The Escrow Agent shall hold the Release of Memorandum, which the Escrow Agent shall record upon the later of (i) Final Acceptance of the Shared Infrastructure, (ii) Final Acceptance of the Traffic Signal, or (iii) a certification by the Engineer that five (5) years have passed from the issuance of the first residential occupancy permit on the Palmers Property and that VDOT has officially determined that the Traffic Signal is not warranted.

#### **5. CONSTRUCTION OF SHARED INFRASTRUCTURE.**

The cost of wetlands mitigation shall be borne by the party on whose property any protected wetlands are located requiring mitigation in order to install the Shared Infrastructure. Palmers



shall bear all cost and expense of installing the Shared Infrastructure and having the Shared Infrastructure accepted by the County and/or VDOT.. Palmers agrees to complete construction of the Shared Infrastructure to a point of Substantial Completion in accordance with the approved Site Plan not later than four (4) months from the closing set forth in Section 4 . Substantial Completion of the Shared Infrastructure shall be evidenced by written confirmation from the Engineer, which shall include copies of all County and VDOT inspection/acceptance reports. The report shall be delivered to the parties hereto and to the Escrow Agent. Palmers shall post, at its cost and expense, all sureties (such as 1 year maintenance bonds) required by the County or VDOT to have any portion of the Shared Infrastructure accepted by the applicable agencies. Palmers shall complete all punchlist items and shall have all Shared Infrastructure accepted by the appropriate governmental agencies within one (1) year of the approval of the Site Plan.

## **6. TRAFFIC SIGNAL.**

Palmers and Massaponax desire that the Traffic Signal be installed. Palmers shall install, at its sole costs, the Traffic Signal. It is anticipated that the development of the Proposed Project along with the future potential development of the Massaponax Property and Massaponax Adjacent Property will generate sufficient vehicle traffic warrants to require the installation of the Traffic Signal at the time that the Proposed Project is constructed. However, the parties acknowledge that installation of the Traffic Signal is specifically subject to all necessary approvals for the construction of such traffic signal which may be required from both the County and VDOT. It is understood and agreed that Palmers shall not be allowed to construct such Traffic Signal until such time as all required warrants therefor have been met. In the event that the warrants for the construction of such Traffic Signal have not been met within five (5) years from the date of the first occupancy permit issued for the residential units constructed on the Palmers Property, Palmers shall have no further obligation for construction of such traffic signal.

If additional fee simple dedications or easements are required for the proper installation of the Traffic Signal, Massaponax and Palmers agree to use all reasonable efforts to make such dedications and grant such easements.

## **7. SPECIFIC PERFORMANCE.**

In addition to the other remedies set forth in this Agreement or available at law or in equity, any party hereto shall have the right to enforce any of the provisions of this Agreement by a suit for specific performance and/or an injunction and/or an action at law for damages, and the prevailing party in any such action shall have the right to recover all of its costs of enforcement from the nonprevailing party, including reasonable attorney's fees.

## 8. MISCELLANEOUS.

A. **No Partnership or Joint Venture.** Nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners, or creating or establishing the relationship of a joint venture, between Palmers and Massaponax, or as constituting either of them as the agent or representative of the other.

B. **Authority.** The undersigned persons executing and delivering this Agreement on behalf of Palmers and Massaponax represent and certify that they have been fully empowered and authorized to do the same.

C. **Notices.** Any notice, request or demand required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if delivered by hand by messenger at the address of the intended recipient, sent prepaid by Federal Express (or a comparable guaranteed overnight delivery service), or deposited in the United States first class mail (registered or certified, postage prepaid, with return receipt requested), addressed as follows:

For Palmers:                      Palmers Creek, LLC  
   Attn: Donn C. Hart, Jr.  
   Virginia Properties, Inc.  
   6308 Five Mile Centre Park  
   Suite 215  
   Fredericksburg, VA 22407

With a copy to:                      Geary H. Rogers  
   Compton & Duling, L.C.  
   12701 Marblestone Drive, Suite 350  
   Prince William, VA 22192  
   Email: [ghr@comptonduling.com](mailto:ghr@comptonduling.com)  
   Facsimile: 703-583-6066

For Massaponax:                      Massaponax Land Company, LLC



Attn: James E. Jarrell, III  
1005 Sophia Street  
Fredericksburg, VA 22401

With a copy to: Phillip Sasser, Jr.  
1008 Prince Edward Street  
Fredericksburg, VA 22401

D. **Assignment.** This Agreement may not be assigned by either party except upon the transfer of the fee simple title of the Palmers Property or the Massaponax Property, in which case this Agreement shall automatically be assigned to the grantee of the real estate. Assignment of the Agreement shall not relieve the original party from its obligations hereunder, unless all parties so agree, in writing.

E. **Severability.** Except as expressly otherwise provided in this Agreement, each and every covenant and agreement contained herein is, and shall be construed as, a separate and independent covenant and agreement, and, except as otherwise expressly provided herein, the breach of any such covenant or agreement by any party or beneficiary hereof shall not discharge or relieve any other party or beneficiary from their respective obligations to perform the same.

F. **Waiver.** A waiver of any provision hereof or default hereunder must be in writing, and no such waiver shall be implied from the failure of any party to respond to a request for waiver or by any omission by a party to take action in respect of any such default. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. A consent or approval to, or of, any act or request by another party requiring such consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act or request.

G. **Covenants Running With The Land.** This Agreement shall be considered a covenant running with the title to the Properties, and shall be binding upon and inure to the benefit of the heirs, successors, assigns, and successors in title to Palmers and Massaponax.

H. **No Merger.** None of the provisions of this Agreement, or the rights and obligations created hereby, is intended to nor shall it be, merged by reason of the fact that one party may at any time be the sole owner of the all portions of the real property described herein.

I. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the Properties and supersedes all prior and contemporaneous negotiations, agreements, written and oral, between the parties. This Agreement shall not be amended or modified and no waiver of any provision hereto shall be effective unless set forth in writing signed by the parties.

J. **Governing Law.** This Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Virginia.

K. **Indemnification.** Any party exercising its rights under this Agreement (“Indemnitor”) hereby agrees to indemnify, defend and hold the other party (“Indemnitee”) harmless from and against all liabilities, obligations, claims, damages, demands, penalties, causes of actions, costs and expenses, including, without limitation, reasonable attorney’s fees and litigation costs which the Indemnitee becomes obligated to pay on account of any claim or assertion of liability arising or alleged to have arisen out of any act or omission of the Indemnitor, its agents, contractors, subcontractors, servants, employees, licensees or invitees, provided such liabilities, obligations, claims, damages, penalties, costs and expenses do not arise from the acts or omissions of the Indemnitee or its agents.

## 9. CONSTRUCTION

A. The captions in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the document in which used or any provisions thereof.

B. The use of pronouns of any gender shall be deemed to include the masculine, feminine and neuter genders, and the use of pronouns in either the singular or the plural number shall be deemed to include the singular and plural, whenever the context so requires.

C. Each provision of this Agreement is severable from every other provision, and the invalidity of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of this Agreement is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and to the extent practicable, the provision shall be enforced.

D. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]



WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By: Donn C Hart  
Donn C. Hart, Manager

By: Thomas T Medsker  
Thomas T Medsker, Manager

STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donn C. Hart, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J. Thorpe  
Notary Public



STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas T. Medsker, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J. Thorpe  
Notary Public



MASSAPONAX LAND COMPANY,  
LLC, a Virginia limited liability company

By: \_\_\_\_\_  
James E. Jarrell, III  
Operating Manager

STATE OF VIRGINIA  
CITY OF FREDERICKSBURG, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that James E. Jarrell, III, whose name as Operating Manager of Massaponax Land Company, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this \_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission Expires:  
Registration No. \_\_\_\_\_

\_\_\_\_\_  
Notary Public

B

Virginia State Corporation  
Commission Certification  
(MANDATORY)



# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

*Richmond, June 1, 2018*

*This is to certify that the certificate of organization of*

**BWF Palmers Creek, LLC**

*was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: June 1, 2018*



*State Corporation Commission*

*Attest:*

*Joel H. Beck*  
*Clerk of the Commission*

# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

*Richmond, March 21, 2019*

*This is to certify that the certificate of organization of*

**BWF Palmers Creek MM, LLC**

*was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: March 21, 2019*



*State Corporation Commission*

*Attest:*

*Joel H. Beck*  
*Clerk of the Commission*

C

Principal's Previous  
Participation Certification  
(MANDATORY)



## Previous Participation Certification

Development Name: Palmers Creek  
Name of Applicant (entity): BWF Palmers Creek, LLC

I hereby certify that:

1. All the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and any statements attached to this certification.
2. During any time that any of the participants were principals in any multifamily rental property, no property has been foreclosed upon, in default or assigned to the mortgage insurer (governmental or private); nor has mortgage relief by the mortgagee been given;
3. During any time that any of the participants were principals in any multifamily rental property, there has not been any breach by the owner of any agreements relating to the construction or rehabilitation, use, operation, management or disposition of the property, including removal from a partnership;
4. That at no time have any principals listed in this certification been required to turn in a property to the investor or have been removed from a multifamily rental property ownership structure;
5. That to the best of my knowledge, there are no unresolved findings raised as a result of state or federal audits, management reviews or other governmental investigations concerning any multifamily rental property in which any of the participants were principals;
6. During any time that any of the participants were principals in any multifamily rental property, there has not been a suspension or termination of payments under any state or federal assistance contract for the property;
7. None of the participants has been convicted of a felony and is not presently, to my knowledge, the subject of a complaint or indictment charging a felony. A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a state and punishable by imprisonment of two years or less;
8. None of the participants has been suspended, debarred or otherwise restricted by any federal or state governmental entity from doing business with such governmental entity; and

**Previous Participation Certification, cont'd**

- 9. None of the participants has defaulted on an obligation covered by a surety or performance bond and has not been the subject of a claim under an employee fidelity bond.
- 10. None of the participants is a Virginia Housing Development Authority (VHDA) employee or a member of the immediate household of any of its employees.
- 11. None of the participants is participating in the ownership of a multifamily rental housing property as of this date on which construction has stopped for a period in excess of 20 days or, in the case of a multifamily rental housing property assisted by any federal or state governmental entity, which has been substantially completed for more than 90 days but for which requisite documents for closing, such as the final cost certification, have not been filed with such governmental entity.
- 12. None of the participants has been found by any federal or state governmental entity or court to be in noncompliance with any applicable civil rights, equal employment opportunity or fair housing laws or regulations.
- 13. None of the participants was a principal in any multifamily rental property which has been found by any federal or state governmental entity or court to have failed to comply with Section 42 of the Internal Revenue Code of 1986, as amended, during the period of time in which the participant was a principal in such property. This does not refer to corrected 8823's.
- 14. None of the participants is currently named as a defendant in a civil lawsuit arising out of their ownership or other participation in a multi-family housing development where the amount of damages sought by plaintiffs (i.e., the ad damnum clause) exceeds One Million Dollars (\$1,000,000).
- 15. None of the participants has pursued a Qualified Contract or planned foreclosure in Virginia after January 1, 2019.

Statements above (if any) to which I cannot certify have been deleted by striking through the words. In the case of any such deletion, I have attached a true and accurate statement to explain the relevant facts and circumstances.

Failure to disclose information about properties which have been found to be out of compliance or any material misrepresentations are grounds for rejection of an application and prohibition against future applications.

DocuSign Envelope ID: 13F8CFEE-47FF-43EA-BD40-042C2D23DA1C  
  
 \_\_\_\_\_  
 Signature

**Dwight D Dunton**

Printed Name

\_\_\_\_\_  
Date (no more than 30 days prior to submission of the Application)

D

# List of LIHTC Developments

(Schedule A)  
**(MANDATORY)**

# List of LIHTC Developments (Schedule A)



Development Name: Palmers Creek  
 Name of Applicant: BWF Palmers Creek, LLC  
 Controlling General Partner or Managing Member: BWF Palmers Creek MM, LLC

**INSTRUCTIONS:**

- 1 A Schedule A is required for every individual that makes up the GP or Managing Member - does not apply to principals of publicly traded corporations.
- 2 A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 3 For each property for which an uncorrected 8823 has been issued, provide a detailed explanation of the nature of the non-compliance, as well as a status statement.
- 4 List only tax credit development experience since 2002 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: Dwight D Dunton, III Controlling GP (CGP) or 'Named' Managing Member of Proposed property? Y

	Development Name/Location	Name of Ownership Entity and Phone Number	CGP or 'Named' Managing Member at the time of dev.? (Y/N)*	Total Dev. Units	Total Low Income Units	Placed in Service Date	8609(s) Issue Date	Uncorrected 8823's? (Y/N) Explain "Y"
1	Patriots Crossing Apartments 423 Manor Rd, Newport News 23608	BPMS Woodview Associates, LP - 703.373.0919	Y	240	240	10/27/2009	3/25/2010	N
2	Glen Arbor, 14300 Jefferies Rd. Woodbridge VA 22191	BWF Glen Arbor, LLC 703.373.0919	Y	209	209	6/15/2018	9/10/2018	N
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\* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8609 (per entity/development) for a total of 6.

1st PAGE TOTAL: 449 449

LIHTC as % of Total Units 100%

ADD ADDITIONAL PROPERTIES USING NEXT TAB

# List of LIHTC Developments (Schedule A)



Development Name: Palmers Creek  
 Name of Applicant: BWF Palmers Creek, LLC  
 Controlling General Partner or Managing Member: BWF Palmers Creek MM, LLC

**INSTRUCTIONS:**

- 1 **A Schedule A is required for every individual that makes up the GP or Managing Member** - does not apply to principals of publicly traded corporations.
- 2 A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 3 For each property for which an uncorrected 8823 has been issued, provide a detailed explanation of the nature of the non-compliance, as well as a status statement.
- 4 List only tax credit development experience since 2002 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: JP Hyland Controlling GP (CGP) or 'Named' Managing Member of Proposed property? N

Development Name/Location	Name of Ownership Entity and Phone Number	CGP or 'Named' Managing Member at the time of dev.? (Y/N)*	Total Dev. Units	Total Low Income Units	Placed in Service Date	8609(s) Issue Date	Uncorrected 8823's? (Y/N) Explain "Y"
1 Patriots Crossing Apartments 423 Manor Rd, Newport News 23608	BPMS Woodview Associates, LP - 703.373.0919	N	240	240	10/27/2009	3/25/2010	N
2 Glen Arbor, 14300 Jefferies Rd. Woodbridge VA 22191	BWF Glen Arbor, LLC 703.373.0919	N	209	209	6/15/2018	9/10/2018	N
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\* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8609 (per entity/development) for a total of 6.

**1st PAGE**  
**TOTAL:**      449      449

**LIHTC as % of**  
**100% Total Units**



# List of LIHTC Developments (Schedule A)



Development Name: Palmers Creek  
 Name of Applicant: BWF Palmers Creek, LLC  
 Controlling General Partner or Managing Member: BWF Palmers Creek MM, LLC

**INSTRUCTIONS:**

- 1 **A Schedule A is required for every individual that makes up the GP or Managing Member** - does not apply to principals of publicly traded corporations.
- 2 A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 3 For each property for which an uncorrected 8823 has been issued, provide a detailed explanation of the nature of the non-compliance, as well as a status statement.
- 4 List only tax credit development experience since 2002 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: Jeff Price Controlling GP (CGP) or 'Named' Managing Member of Proposed property? N

Development Name/Location	Name of Ownership Entity and Phone Number	CGP or 'Named' Managing Member at the time of dev.? (Y/N)*	Total Dev. Units	Total Low Income Units	Placed in Service Date	8609(s) Issue Date	Uncorrected 8823's? (Y/N) Explain "Y"
1 Glen Arbor, 14300 Jefferies Rd. Woodbridge VA 22191	BWF Glen Arbor, LLC 703.373.0919	N	209	209	6/15/2018	9/10/2018	N
2							
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40 \* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8609 (per **1st PAGE TOTAL:** 209 209 **LIHTC as % of Total Units** 100%)

# List of LIHTC Developments (Schedule A)



Development Name: Palmers Creek  
 Name of Applicant: BWF Palmers Creek, LLC  
 Controlling General Partner or Managing Member: BWF Palmers Creek MM, LLC

**INSTRUCTIONS:**

- 1 A Schedule A is required for every individual that makes up the GP or Managing Member - does not apply to principals of publicly traded corporations.
- 2 A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 3 For each property for which an uncorrected 8823 has been issued, provide a detailed explanation of the nature of the non-compliance, as well as a status statement.
- 4 List only tax credit development experience since 2002 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Daniel Bauman Controlling GP (CGP) or 'Named' Managing Member of Proposed property? N  
 Principal's Name:

	Development Name/Location	Name of Ownership Entity and Phone Number	CGP or 'Named' Managing Member at the time of dev.? (Y/N)*	Total Dev. Units	Total Low Income Units	Placed in Service Date	8609(s) Issue Date	Uncorrected 8823's? (Y/N) Explain "Y"
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\* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8609 (per entity/development) for a total of 6.

1st PAGE TOTAL: 0 0 #DIV/0! LIHTC as % of Total Units

ADD ADDITIONAL PROPERTIES USING NEXT TAB

# List of LIHTC Developments (Schedule A)



Development Name: Palmers Creek  
 Name of Applicant: BWF Palmers Creek, LLC  
 Controlling General Partner or Managing Member: BWF Palmers Creek MM, LLC

**INSTRUCTIONS:**

- 1 A Schedule A is required for every individual that makes up the GP or Managing Member - does not apply to principals of publicly traded corporations.
- 2 A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 3 For each property for which an uncorrected 8823 has been issued, provide a detailed explanation of the nature of the non-compliance, as well as a status statement.
- 4 List only tax credit development experience since 2002 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: Chris Cobb Controlling GP (CGP) or 'Named' Managing Member of Proposed property? N

	Development Name/Location	Name of Ownership Entity and Phone Number	CGP or 'Named' Managing Member at the time of dev.? (Y/N)*	Total Dev. Units	Total Low Income Units	Placed in Service Date	8609(s) Issue Date	Uncorrected 8823's? (Y/N) Explain "Y"
1	Glen Arbor, 14300 Jefferies Rd. Woodbridge VA 22191	BWF Glen Arbor, LLC 703.373.0919	N	209	209	6/15/2018	9/10/2018	N
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40 \* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8609 (per **1st PAGE TOTAL:** 209 209 **LIHTC as % of Total Units** 100%)

E

Site Control  
Documentation & Most  
Recent Real Estate Tax  
Assessment  
(MANDATORY)

## ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT** (this “Agreement”) is entered into and made effective as of April 8, 2019, by and between **BONAVENTURE INVESTMENTS, LLC**, a Virginia limited liability company (“Assignor”) and **BWF PALMERS CREEK, LLC**, a Virginia limited liability company (“Assignee”).

### RECITALS

A. Assignor and Palmers Creek, LLC, a Virginia limited liability company (the “Seller”) are party to a Purchase and Sale Agreement, dated as of September 9, 2016 (as amended, restated, supplemented, or otherwise modified from time to time, the “Purchase Agreement”) under which the Assignor has agreed to purchase and Sellers have agreed to sell (i) all that certain parcel of land together with any improvements thereon located in Spotsylvania County, Virginia, containing approximately twenty-five (25) acres as shown generally outlined in red on that certain plan entitled “Palmer’s Creek Development Plan Spotsylvania County, VA dated 06-02-16” prepared by Fairbanks & Franklin, as further described in Exhibit A of the Purchase Agreement, (ii) together with all easements or rights-of-way affecting or appurtenant to the Land and any of Seller’s rights to use same, all right, title and interest of Seller in and to all rights of ingress and egress to and from the Land, any right, title and interest of Seller in and to any and all public roads, streets and ways, opened or proposed, affecting or bounding the Land; and any right, title and interest of Seller in and to any and all strips of property abutting, bounding or which are adjacent to the Land (the Land, together with other properties heretofore described being collectively referred to as the “Property”).

B. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor’s right, title and interest in and to the Purchase Agreement, subject to the terms below.

### AGREEMENT

For \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. As of the date hereof, Assignor hereby transfers, conveys, assigns and sets over to Assignee all of the Assignor's right, title and interest in and to the Purchase Agreement.
2. As of the date hereof, Assignee hereby accepts the assignment to it of the Purchase Agreement and agrees to assume, be bound by and perform all of Assignor's obligations under the Purchase Agreement.
3. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.
4. This Agreement constitutes the entire agreement between the parties hereto with respect to the matters contemplated herein and supersedes all prior discussions, undertakings, agreements and negotiations between the parties hereto.
5. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

[SIGNATURE PAGE FOLLOWS]

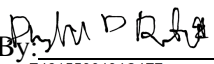
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[SIGNATURE PAGE TO ASSIGNMENT AND  
ASSUMPTION OF PURCHASE AGREEMENT]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

**ASSIGNOR:**

**BONAVENTURE INVESTMENTS, LLC**  
a Virginia limited liability company

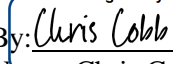
DocuSigned by:  
  
By: \_\_\_\_\_ (SEAL)  
E4215586484C4F7...  
Name: Dwight D. Dunton III  
Title: Manager

**ASSIGNEE:**

**BWF PALMERS CREEK, LLC**  
a Virginia limited liability company

By: BWF Palmers Creek MM, LLC, its Manager

By: BWF Manager, LLC, its Manager

DocuSigned by:  
  
By: \_\_\_\_\_ (SEAL)  
Name: Chris Cobb  
Title: Vice President

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## **FIRST AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE**

**THIS FIRST AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE** (“Amendment”) is made this 28th day of August 2017, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Seller”), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company (“Buyer”).

### **RECITALS:**

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale (“Agreement”) fully executed on September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement (“Property”).

B. Seller and Buyer desire to amend the Agreement as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by this reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. The first sentence of Paragraph 4(b) of the Agreement is hereby amended to read as follows:

(b) For the period commencing on the date of the full execution of this Agreement and ending on the later of (i) September 8, 2017, or (ii) the rezoning of the Property as described in Paragraph 16 hereof has been finally approved by the County’s Board of Supervisors and said approval is not subject to appeal (the “Due Diligence Period”), Buyer shall have the right to terminate this Agreement, if as the result of Buyer’s Inspections or for any other reason, Buyer determines, in its sole and absolute discretion, that it is not in Buyer’s interest to purchase the Property.



2. Paragraph 16(b) of the Agreement is hereby amended to read as follows:

If Seller has not obtained the Rezoning within twenty-eight (28) months from the full execution of this Agreement, then Buyer or Seller may terminate this Agreement by written notice to the other party and to Escrow Agent and Buyer shall receive a full refund of the Deposit. If either party elects to cancel this Agreement, this Agreement shall be of no further force or effect, except for the provisions hereof which expressly survive termination.

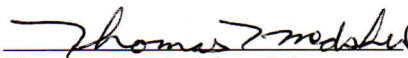
3. Except as expressly amended hereby, the Agreement shall be and remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By:  (SEAL)  
Donn C. Hart, Manager

By:  (SEAL)  
Thomas T. Medsker, Manager

BONAVENTURE INVESTMENTS,  
LLC, a Virginia limited liability company

By:   
Dwight D. Dunton, III, Manager

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**SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE**

**THIS SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE** (“Amendment”) is made this 6th day of July 2018, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Seller”), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company, or Assigns (“Buyer”).

**RECITALS:**

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale (“Agreement”) fully executed September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement (“Property”).

B. The Agreement was amended by that certain First Amendment to Agreement for Purchase and Sale dated August 28, 2017.

C. Seller and Buyer desire to further amend the Agreement as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. The ninth sentence of Paragraph 6 (a) of the Agreement is hereby amended to reflect that the Amended and Restated Development Cooperation Agreement between Seller and Massaponax Land Company, LLC, dated April 24, 2018, and the Amended Memorandum of Agreement dated April 24, 2018, attached hereto as Exhibit B-1, is hereby substituted for Exhibit B to this Agreement and shall henceforth be considered the “Development Agreement” for all purposes of this Agreement and shall be deemed a Permitted Exception.

2. All references in the Agreement to the Development Cooperation Agreement are hereby amended to read the “Amended and Restated Development Cooperation Agreement” and all references to Exhibit B are hereby amended to read “Exhibit B-1.”

3. Paragraph 16(b) of the Agreement is hereby amended to read as follows:

If Seller has not obtained the Rezoning within 34 months from the full execution of this Agreement, then Buyer or Seller may terminate this Agreement by written notice to the other party and to Escrow Agent, and Buyer shall receive a full refund of the Deposit. If either party elects to cancel this Agreement, this Agreement shall be of no further force or effect, except for the provisions hereof which expressly survive termination.

4. The following paragraph designated as 16(c) is hereby inserted into the Agreement:

(c) If Seller has not obtained a resolution from the Board of Supervisors inducing the issuance of housing revenue bonds on which the interest is exempt from income taxes within ninety (90) days of the approval of the Rezoning of the Property by the Board of Supervisors, then Buyer may terminate this Agreement by written notice to Seller and to Escrow Agent and Buyer shall receive a refund of the Deposit. If Buyer elects to terminate this Agreement, this Agreement shall be of no further force or effect except for the provisions hereof which expressly survive termination.

5. Paragraph 17 of the Agreement entitled "Infrastructure Costs" is hereby designated as Paragraph 17(a) of the Agreement.

6. The following paragraph designated as 17(b) and entitled "Traffic Signal Escrow" is hereby inserted into the Agreement:

(b) In addition to the obligations of Buyer and Seller set forth in Paragraph 17(a) above, at Settlement, Buyer shall deposit into escrow with Escrow Agent the sum of \$250,000.00 ("Traffic Signal Escrow") to reimburse Seller for a portion of the additional funds that Seller is required to deposit in escrow for the benefit of Massaponax Land Company, LLC, pursuant to Section 6 of the Development Agreement and designated therein as the "Signal Escrow Fund." The Traffic Signal Escrow shall be held in escrow and disbursed by Escrow Agent in accordance with the terms and conditions of Section 6 entitled "Traffic Signal Provisions" of the Development Agreement. If VDOT permitted and VDOT approved construction has not commenced upon either the Traffic Signal or the Alternate Site Traffic Signal within ten (10) years from closing under Seller's Agreement with Massaponax Land Company, LLC, then Escrow Agent shall return the Traffic Signal



Escrow to Buyer. Capitalized terms used, but not defined, in this Paragraph 17(b) shall have the meaning ascribed to them in Section 6 of the Development Agreement.

7. The following provision is hereby inserted into Paragraph 1(a) at the end of clause (ii):

...including, but not limited to, a non-exclusive easement for ingress to and egress from the Land on and over (x) the access road running generally east-west from the Land to Jefferson Davis Highway designated as "Private Street" on the plan entitled, "Palmer's Creek Generalized Development Plan for Rezoning" dated 2-22-18 prepared by Fairbanks and Franklin, attached hereto as Exhibit A-1 and incorporated herein by this reference and (y) the access road running generally north-south along the eastern boundary of the Land and designated as "Private Street" on Exhibit A-1.

8. The eighth sentence in Paragraph 2 related to the purchase of the Property in phases is hereby deleted and the following inserted in lieu thereof:

It is understood and agreed that Phase 1 shall include Building 1, Building 2 and the Clubhouse and swimming pool shown on Exhibit A-1, together with sufficient acreage for the infrastructure required for the 200 units in Phase 1 in accordance with a site plan which is consistent with the application for Rezoning and approved by the County for the development of all units approved pursuant to the Rezoning, which acreage for the infrastructure may be located on Phase 2 and addressed in the Reciprocal Easement and Cost Sharing Agreement described herein.

9. The following subparagraph designated (i) is hereby inserted at the end of Paragraph 8:

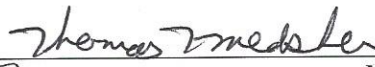
(i) A Reciprocal Easement and Cost Sharing Agreement conveying to Buyer the easements or rights-of-way as described in items (i) and (ii) of subparagraph 1(a) herein.

10. Except as expressly amended herein, all of the terms, covenants and conditions of the Agreement, as previously amended, shall be and remain in full force and effect.

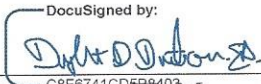
WITNESS the following signatures and seals:

**PALMERS CREEK, LLC, a**  
Virginia limited liability company

By:  (SEAL)  
Donn C. Hart, Manager

By:  (SEAL)  
Thomas T. Medsker, Manager

**BONAVENTURE INVESTMENTS,**  
LLC, a Virginia limited liability company

By:  (SEAL)  
Dwight D. Dunton, III, Manager

**THIRD AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE**

**THIS THIRD AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE** (“Third Amendment”) is made this 14<sup>th</sup> day of August, 2019, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Seller”), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company, or Assigns (“Buyer”).

**RECITALS:**

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale (“Agreement”) fully executed September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement (“Property”).

B. The Agreement was amended by that certain First Amendment to Agreement for Purchase and Sale dated August 28, 2017 (“First Amendment”), and that certain Second Amendment to Agreement for Purchase and Sale dated July 6, 2018 (“Second Amendment”).

C. Seller and Buyer desire to further amend the Agreement as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. It is hereby understood and agreed that Phase 1 of the Property, as defined in the Agreement, shall consist of that certain parcel of land designated “Parcel 1” containing 9.525 acres and depicted on the plat attached hereto as Exhibit A-1 entitled “Article 13 Subdivision Plat on the Lands of Palmers Creek, LLC, LR 200600010842, Courtland Magisterial District, Spotsylvania County, Virginia,” prepared by Fairbanks & Franklin and dated December 18, 2018, as recorded in the Clerk’s Office of the Circuit Court of Spotsylvania County, Virginia on June 14, 2019, as Instrument #19-9088 (“Subdivision Plat”). It is further understood and agreed that Phase 2 of the Property, as defined in the Agreement, shall consist of that certain parcel of land designated “Revised Tax Map 49-A-114” containing 6.893 acres of land as shown on the

Subdivision Plat together with that certain parcel of land designated as “Portion of Tax Map 49-A-114A” containing 5.022 acres of land and depicted on the Easement Plat (as defined herein).

2. Prior to Buyer closing on Parcel 1, Seller will record the plat entitled “Replat/Boundary Line Adjustment, Easement and Right of Way Dedication Plat, Palmers Creek Apartments, Courtland Magisterial District, Spotsylvania County, Virginia,” prepared by Fairbanks and Franklin, dated February 27, 2019, last revised on July 24, 2019, attached hereto as Exhibit A-2, (the “Easement Plat”) together with the appropriate deeds of easement and dedication, all in the form required by the appropriate authorities of Spotsylvania County, Virginia, and prior to the recording of the Deed of Conveyance transferring title to Phase 1 to Buyer.

3. Closing on the purchase of Phase 1 will take place on or before February 22, 2020 (“Buyer’s Outside Closing Date”). At closing, Seller will record the Deed of Conveyance transferring title to Phase 1 to Buyer subject to the dedication of certain areas for public street purposes pursuant to the Easement Plat containing 1.143 acres. Following the recording of the Deed for Phase 1 to Buyer, and prior to the recording of any Deed of Trust securing any loan obtained by Buyer to finance the acquisition of Phase 1, the costs of construction of the Shared Infrastructure, all other infrastructure shown on the site plan for the Property entitled “Palmer’s Creek Apartments Phase 1 Site Plan” prepared by Fairbanks & Franklin and dated February 2, 2019, attached hereto as Exhibit B (“Site Plan”), and the costs of construction of the buildings to be constructed on Phase 1, Seller and Buyer will record a Reciprocal Easement Agreement (the “REA”) which will address the use and maintenance of the variable width private ingress/egress easements and the variable width private storm drainage easements as shown on pages 4, 5, 6 and 8 of the Easement Plat (Exhibit A-2). The REA shall include, inter-alia, the following provisions:

A. Buyer will grant to Seller, for use in common with Buyer, (a) non-exclusive easements for ingress and egress (“Shared Access Easements”) over the easements labeled “Variable Width Private Ingress/Egress ESMT Hereby Reserved” on the Easement Plat for access to and from Phase 2 and Revised Tax Map 49-A-112 (“Commercial Parcel”) depicted on the Easement Plat.



B. Buyer will grant to Seller temporary grading and construction easements as needed for the development and construction of improvements on the Commercial Parcel and on Phase 2, if Phase 2 is not owned by Buyer.

C. Buyer will grant to Seller easements for the installation of other public and private utilities in locations to be determined as necessary for the development and construction on the Commercial Property and/or Phase 2, if Phase 2 is not owned by Buyer, in the future which do not unreasonably interfere with any improvements on Buyer's property.

D. Mutually agreeable cost sharing provisions pursuant to which Buyer and Seller shall share in the ongoing costs of maintaining, repairing and replacing the roadway improvements within the Shared Access Easements, the drainage improvements and stormwater management easements as described in the REA.

E. A self-help provision providing that if the Shared Infrastructure (as defined herein) is not substantially complete, subject only to normal punch list items and final pavement topping, by that date which is eighteen (18) months from the date on which Closing occurs (the "Completion Deadline"), Seller, after written notice to Buyer with thirty (30) days opportunity to complete the work or if the work cannot be completed and Buyer fails to forthwith commence completion of Shared Infrastructure within said thirty (30) days and diligently acts to complete said work, shall have the right to enter onto the property owned by Buyer for the purpose of completing the Shared Infrastructure in accordance with the Site Plan so as to complete the obligations enforceable by Massaponax Land Company ("MLC") pursuant to the Development Agreement (as defined in Section 7 hereof) and any other infrastructure shown on the Site Plan which Seller desires to complete so as to provide ingress and egress to Phase 2 and would allow the development and construction of the improvements permitted under the existing zoning on Phase 2, but as to which Seller shall have no obligation to complete. Further in such event, Seller shall have the right to grant any public or private utility easements necessary or required by Spotsylvania County to allow the development and construction of the improvements permitted under the existing zoning on Phase 2, provided said easements do not interfere with the access, use and occupancy of Phase 1.

4. It is hereby acknowledged and understood that construction of the Shared Infrastructure, as defined in Paragraph 17 of the Agreement, has not yet been commenced by Seller. Subject to the terms and provisions of this Third Amendment, existing Paragraph 17 of

the Agreement (designated as Paragraph 17(a) in the Second Amendment) is hereby deleted in its entirety. It is hereby agreed that Buyer shall assume the obligation to complete all of the Shared Infrastructure defined in former Paragraph 17 of the Agreement and that both the Shared Infrastructure and all of the other site development infrastructure, as shown on pages \_\_\_\_\_ of the Site Plan shall be constructed by Buyer at Buyer's sole cost and expense. The work performed by Buyer pursuant to the Agreement, as amended hereby and pursuant to the Site Plan, shall include any necessary or required relocation of existing public and/or private utility lines on the Property or along the Property's existing boundary with U.S. Route 1, and any and all public and/or private utilities which must be installed within or along the said U.S. Route 1 right-of-way in order to complete all of the Shared Infrastructure. Said infrastructure work by Buyer shall include the entrance road and cul-de-sac that will be publicly dedicated and known as Palmers Creek Way, the private access roads labeled Running Creek Ridge and Whispering Wood Lane on the Site Plan and all sewer and water utility stubs shown on the Site Plan which will serve the Commercial Parcel as depicted on the Easement Plat. Subject to the foregoing and in accordance with Paragraph 17 of the Agreement, Seller agrees to accept a reduction of the Purchase Price in the fixed amount of \$2,300,000.00.

5. Seller and Buyer hereby acknowledge that during the construction of the Shared Infrastructure by Buyer conditions may be encountered, especially in connection with the construction of Stormwater Management Facility-1 and Stormwater Management Facility-2, which will necessitate modifications to the approved Site Plan. To the extent required, Seller hereby agrees to execute any amendments or modifications to the approved Site Plan which may be needed to address these conditions so long as (a) the modifications to the Site Plan continue to satisfy all of the technical requirements of Spotsylvania County, (b) the modifications to the Site Plan do not adversely affect the parcels which are owned by Seller at that time, and (c) the modifications do not materially increase the cost of construction of any improvements on the Property.

6. It is hereby acknowledged and understood that existing Paragraph 17(b) of the Agreement inserted by the Second Amendment is hereby deleted in its entirety.

7. Buyer agrees to assume all of Seller's obligations under the Amended and Restated Development Cooperation Agreement with Massaponax Land Company, LLC, dated April 24, 2018, as amended by First Amendment to Amended and Restated Development

Cooperation Agreement dated August 2, 2019 (“Development Agreement”) attached as Exhibit C hereto. The following are the modifications and amendments agreed to by MLC in the First Amendment:

A. Buyer will assume Seller’s obligations for the Traffic Signal, as described in Section 6 of the Development Agreement, as amended. Accordingly, at Buyer’s closing with Seller on Phase 1, Buyer shall deposit into escrow with the Escrow Agent either (a) cash in the amount of \$587,500.00 or (b) the Private Letter of Credit-Signal in the amount of \$591,250.00. The Private Letter of Credit-Signal is defined to include either a letter of credit in favor of Massaponax Land Company from an institution which would be eligible to issue the Public Letter of Credit (as defined in the Development Agreement) or a surety bond that either meets the requirements of the definition of Private Letter of Credit- Signal and is in a form reasonably acceptable to Massaponax Land Company.

B. The Closing, as defined in Paragraph 4 of the Development Agreement, has been amended to coincide with the Closing Date on Phase 1 as set forth in the Purchase and Sale Agreement, and which settlement will occur not later than February 22, 2020. Likewise, the outside date for Seller or Buyer to obtain final Site Plan approval shall be amended to coincide with the Closing Date.

C. Paragraph 4 of the Development Agreement has been amended to confirm that the “BLA Deed” shall consist of the Deed of Exchange and Easement attached to the Development Agreement and the “BLA Plat” as referred to therein shall consist of the Easement Plat.

D. Paragraph 5 of the Development Agreement has been amended to extend the deadline for Substantial Completion of the Shared Infrastructure, as defined in the Development Agreement, to no later than August 22, 2021.

8. At the Closing on Phase 1, the Phase 2 Deposit, as defined in the Agreement, shall be increased to \$250,000.00 and released to Seller. Further, Buyer shall cause Joyner Commercial Properties to reduce its commission on the sale of Phase 1 and Phase 2 from 5% to 4% of the Purchase Price, based upon the per unit Purchase Price in Phase I of \$23,000.00 and in Phase II of \$25,000.00.

9. The Purchase Price for the 200 +/- units which will comprise Phase 2 of the Property is hereby increased to \$25,000.00 per multi-family unit.

10. At the Closing on Phase 1, the \$250,000.00 contribution which Seller has agreed to make to Hometown Heroes will be deducted from Seller's proceeds and held in escrow by Escrow Agent pending Seller's determination as to the proper method of disbursement to the proper parties. The said \$250,000.00 escrow will be disbursed by Escrow Agent in accordance with written instructions from Seller at a time subsequent to Closing on Phase 1.

11. Seller will bear the costs of any cash proffers due and payable to Spotsylvania County in accordance with the approved rezoning for each of Phase 1 and Phase 2 by way of a Purchase Price reduction at the closing on Phase 1 and the closing on Phase 2, respectively.

12. Except as expressly amended herein, all of the terms, covenants and conditions of the Agreement, as previously amended, shall be and remain in full force and effect and the parties acknowledge that each is in compliance therewith.

**WITNESS** the following signatures and seals:

**PALMERS CREEK, LLC, a  
Virginia limited liability company**

Date: 8-5-19

By: Donn C Hart (SEAL)  
Donn C. Hart, Manager

Date: 8-5-19

By: Thomas T Medsker (SEAL)  
Thomas T. Medsker, Manager

**BONAVENTURE INVESTMENTS,  
LLC, a Virginia limited liability company**

Date: 8/14/2019

DocuSigned by:  
By: Dwight D Dunton, III (SEAL)  
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Dwight D. Dunton, III, Manager

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FOURTH AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE

THIS FOURTH AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE ("Fourth Amendment") is made this day of August, 2019, by and between PALMERS CREEK, LLC, a Virginia limited liability company ("Seller"), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company, or Assigns ("Buyer").

R E C I T A L S:

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale ("Agreement") fully executed September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement ("Property").

B. The Agreement was amended by that certain First Amendment to Agreement for Purchase and Sale dated August 28, 2017 ("First Amendment"), that certain Second Amendment to Agreement for Purchase and Sale dated July 6, 2018 ("Second Amendment"), and that certain Third Amendment to Agreement for Purchase and Sale dated August 5, 2019 ("Third Amendment").

C. Seller and Buyer desire to further amend the Agreement as more particularly set forth herein.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. In connection with Buyer's assumption of Seller's obligations under the Amended and Restated Development Cooperation Agreement, as amended, and Buyer's plans for the development of Parcel I and certain adjacent property, Buyer retained Fairbanks & Franklin to prepare the site plan required by Spotsylvania County (the "Site Plan") for development of the site.

2. The Site Plan needs to be approved by Spotsylvania County prior to Buyer closing on the purchase of Parcel 1. In order to obtain approval of the Site Plan, Buyer hereby agrees to provide Spotsylvania County with the required subdivision and related infrastructure agreement and surety bonds at Buyer's sole cost and expense. The County of Spotsylvania Infrastructure Agreement dated August 12, 2019, a copy of which is attached hereto as Exhibit A ("Infrastructure Agreement") and the bonds required therein permit a maximum of two (2) years for completion of the required improvements. In consideration for Seller's agreement to execute the Infrastructure Agreement, Buyer agrees that, in the event that Buyer proceeds to settlement on the purchase of Parcel 1, Buyer will indemnify and hold Seller harmless from and against any loss, cost or expense, including reasonable attorney's fees, incurred by Seller resulting from (i) a claim or claims made by Spotsylvania County against Seller and/or the surety pursuant to the Infrastructure Agreement or (ii) to the extent not recovered by Spotsylvania County from the surety bond provided by Buyer to Spotsylvania County as required by the Infrastructure Agreement, if Spotsylvania County makes a claim against Seller for any amount not recovered from the surety.

3. In the event the Site Plan is approved but Buyer fails to close on the purchase of Parcel 1, Seller hereby agrees that in the event Seller enters into a contract for the sale of Parcel 1 (whether solely Parcel 1 or Parcel I and additional property owned by Seller) Seller or the new buyer will post the required surety bonds with Spotsylvania County and will give notice to Buyer that the surety bonds have been posted. Buyer shall then have the right to obtain the release of the surety bonds posted by Buyer with Spotsylvania County when the Site Plan was submitted for final approval and Buyer shall be relieved of its obligation to indemnify Seller as set forth in Paragraph 2 above.

4. Buyer and Seller shall cooperate with each other in connection with the posting of the substitute surety bonds and the release of the surety bonds originally posted by Buyer.

5. Except as expressly amended herein, all of the terms, covenants and conditions of the Agreement, as previously amended, shall be and remain in full force and effect and the parties acknowledge that each is in compliance therewith.

WITNESS the following signatures and seals:

Date: 8/5 2019  
(SEAL)

Date: 8/5 2019  
(SEAL)

PALMERS CREEK, I.L.C.,  
a Virginia limited liability company

By: Donn C Hart

Donn C. Hart, Manager

By: Thomas T Medsker

Thomas T. Medsker, Manager

BONAVENTURE INVESTMENTS, I.L.C.,  
a Virginia limited liability company

Date: \_\_\_\_\_  
(SEAL)

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

Dwight D. Dunton, III, Manager

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WITNESS the following signatures and seals:

PALMERS CREEK, LLC,  
a Virginia limited liability company

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

By: \_\_\_\_\_ (SEAL)  
Donn C. Hart, Manager

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

By: \_\_\_\_\_ (SEAL)  
Thomas T. Medsker, Manager

BONAVENTURE INVESTMENTS, LLC,  
a Virginia limited liability company

Date: 08/15/2019

By:  \_\_\_\_\_ (SEAL)  
Dwight D. Dunton, III, Manager

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AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("Agreement") is made and entered into this 9<sup>th</sup> day of September, 2016, by and between PALMERS CREEK, LLC (the "Seller") and BONAVENTURE INVESTMENTS, LLC, or Assigns (the "Buyer").

WITNESSETH:

That for and in consideration of the sum of One Hundred Dollars (\$100.00) paid by Buyer to Seller and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell, convey, assign, transfer and deliver to Buyer and Buyer agrees to buy, acquire and take the Property (as defined herein) in accordance with the terms and conditions set forth in this Agreement.

1. The Property. The Property being purchased and sold in accordance with the terms hereof is generally described as follows:

(a) That certain parcel of land together with any improvements thereon located in Spotsylvania County, Virginia (the "County"), containing approximately twenty-five (25) acres as shown generally outlined in red on that certain plan entitled "Palmer's Creek Development Plan Spotsylvania County, VA dated 06-02-16", prepared by Fairbanks & Franklin, attached hereto as Exhibit "A" and incorporated herein for all purposes (the "Land"), together with (i) all easements or rights-of-way affecting or appurtenant to the Land and any of Seller's rights to use same; (ii) all right, title and interest of Seller in and to all rights of ingress and egress to and from the Land; (iii) any right, title and interest of Seller in and to any and all public roads, streets and ways, opened or proposed, affecting or bounding the Land; and (iv) any right, title and interest of Seller in and to any and all strips or pieces of property abutting, bounding or which are adjacent to the Land (the Land, together with the other properties heretofore described being collectively referred to as the "Property"). The exact boundary and acreage of the Property shall be determined by the subdivision plat to be obtained by Seller during the Due Diligence Period (as defined herein).

(b) All of Seller's right, title and interest in and to all assignable permits, entitlements, licenses, certificates, franchises and governmental approvals relating to or used in connection with the Property.

2. Purchase Price. The Purchase Price for the Property shall be Twenty-Three Thousand Dollars (\$23,000) per multi-family unit as approved by the County in the rezoning of the Property. The Purchase Price shall be payable by application of the Deposit (as defined herein) and the balance by immediately available funds at Settlement (as defined herein). For example, if the Property is approved for 320 multi-family units, then the Purchase Price will be Seven Million Three Hundred Sixty Thousand Dollars (\$7,360,000). However, in the event the County requests and Seller agrees to tender a cash proffer in connection with Seller's rezoning of the Property, Buyer will receive a credit to the Purchase Price (determined on a per unit basis) if Buyer pays the cash proffer to the County. In the event the County approves a rezoning of the Property for more than 280 multi-family units, then Buyer reserves the right to close on the Property in two (2) phases, but shall acquire the

portion of the Property which will accommodate not less than 200 multi-family units and pay that portion of the Purchase Price as the first phase and at the first Settlement. Prior to Settlement, Purchaser shall obtain approval from Spotsylvania County, Virginia ("County") of a subdivision plat ("Plat") showing the two (2) parcels constituting the first phase of not less than 200 multifamily units ("Phase 1") and the second phase containing the remainder of the multifamily units approved pursuant to the Rezoning defined in paragraph 16 hereafter ("Phase 2"). The Plat shall be subject to Seller's written approval, which shall not be unreasonably withheld or delayed. It is understood and agreed that Phase 1 shall constitute the rear portion of the Property together with sufficient acreage for the infrastructure required for the Phase 1 units in accordance with a site plan which is consistent with the application for Rezoning and approved by the County for the development of all the units approved pursuant to the Rezoning. At the settlement on Phase 1, Seller and Buyer shall grant to each other reciprocal and mutual easements for ingress and egress and installation of utilities necessary or required to provide access throughout the entire Property and the development thereof in accordance with the Rezoning, including provisions for the proportionate sharing of the cost of maintaining the shared infrastructure, in accordance with a Reciprocal Easement and Cost Sharing Agreement ("REA") which shall be approved by the parties prior to the expiration of the Due Diligence Period.

3. Deposit. Simultaneously with the execution and delivery of this Agreement by Seller to Buyer, Buyer shall deliver to BridgeTrust Title Group, as escrow agent (the "Escrow Agent") a deposit in the amount of Fifty Thousand Dollars (\$50,000) (the "Deposit") which shall be held by Escrow Agent in a non-interest bearing account. The Deposit shall be applied to the Purchase Price at Settlement or as otherwise provided for herein.

4. Access and Investigations.

(a) During the term of this Agreement, Buyer, its agents, engineers, contractors and other representatives (collectively "Buyer's Agents") shall have the right to go upon the Property for the purpose of conducting such inspections, investigations and tests (the "Inspections") as Buyer, in its sole discretion, deems necessary or desirable in connection with the purchase of the Property. Buyer agrees to indemnify, defend and save Seller harmless of and from all claims, losses, liabilities, costs and expenses (including reasonable attorney's fees) arising from the negligence of Buyer's Agents in inspecting the Property. Buyer's indemnity shall survive either Settlement hereunder or termination of this Agreement.

(b) For the period commencing on the date of the full execution of this Agreement and ending on the earlier of (i) twelve (12) months from that date or (ii) the rezoning of the Property as described in Paragraph 16 hereof has been approved by the County's Board of Supervisors and said approval is not subject to appeal (the "Due Diligence Period"), Buyer shall have the right to terminate this Agreement, if as a result of Buyer's Inspections or for any other reason, Buyer determines, in its sole and absolute discretion, that it is not in Buyer's interest to purchase the Property. In the event Buyer elects to terminate this Agreement, Buyer shall give written notice of such election to Seller and to Escrow Agent, prior to the expiration of the Due Diligence Period. If such notice is given, this Agreement shall terminate as of the date of said notice, the Escrow Agent shall return the Deposit to the Buyer and, except as otherwise provided herein, none of the parties

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hereto shall have any further rights or obligations hereunder. Otherwise, this Agreement shall remain in full force and effect and the Deposit shall be nonrefundable under all circumstances except in the event of a default by Seller or termination of this Agreement by Purchaser pursuant to paragraph 14 below.

(c) Within two (2) business days of Buyer's receipt of a fully executed counterpart of this Agreement, Buyer shall provide Seller with a list of due diligence items to be provided by Seller to Buyer. Seller shall furnish the items on said list which are in Seller's possession or control within three (3) business days of receipt of Buyer's list. For each day it takes Seller to provide the required information to Buyer, in addition to the initial three (3) business day period, the Due Diligence Period shall be extended by one (1) day.

5. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties which shall expressly survive Settlement hereunder:

(a) Seller is a limited liability company, duly organized and validly existing under the laws of the Commonwealth of Virginia, has all requisite power and authority to carry on its business as now conducted and has duly authorized the execution and delivery of this Agreement.

(b) Seller is now the owner of Spotsylvania County Tax Map Numbers 49-A-112 and 49-A-114 ("Existing Property"). Seller is the contract purchaser of the portion of the Property consisting of that portion of the Property labeled on Exhibit A "4.61 AC To Parcel 49-A-112" and will be the sole owner of the Property at the date of Settlement and has the authority to enter into this Agreement and to sell the Property in accordance with the terms and conditions hereof. Seller has not assigned, mortgaged, pledged, hypothecated, or otherwise encumbered any of its rights or interests in and to the Property, except as disclosed to Buyer and except as to Seller's existing loan with Eaglebank secured by a Deed of Trust on the Existing Property reported on the Title Commitment (hereafter defined).

(c) All payments for work or improvements performed by or on behalf of Seller to or for the benefit of the Property for all periods prior to Settlement have been or will be paid. On the date of Settlement, there shall be no mechanic's or materialmen's liens of record encumbering the Property.

(d) The Property, to the best of Seller's knowledge, is in compliance with all applicable ordinances of the County, as well as all ordinances, orders and regulations of any local, state or federal governmental authority, including but not limited to, environmental protection, land use, subdivision and soil conditions.

(e) Seller is not aware of and has not received any written notice of any violations of any laws, ordinances, orders, regulations or requirements of any governmental authority affecting the use or occupancy of the Property.

(f) There is no pending or, to Seller's knowledge, threatened litigation against Seller with respect to the Property, which, if decided adversely to Seller, is not either adequately

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covered by insurance or would adversely affect Seller's ability to continue to own the Property and to perform its obligations hereunder.

(g) The Property has or will at Settlement have 2-way access to U.S. Route 1.

(h) Seller will use all reasonable efforts not to cause or permit any action to be taken which would cause any of the foregoing representations or warranties to be untrue as of the Settlement. Seller agrees to notify Buyer promptly in writing of any event or condition which occurs prior to Settlement which causes a change in the facts related to, or the truth of any of the above representations and warranties.

(i) Should any of the foregoing representations and warranties be inaccurate or become inaccurate in any material respect between the date hereof and Settlement, then the Buyer shall give written notice to Seller specifying which representations and warranties are or have become inaccurate and Seller shall have thirty (30) days within which to take all actions necessary to correct said inaccuracies; provided that if said inaccuracies cannot be corrected within thirty (30) days and Seller is proceeding diligently to correct the inaccuracies, Seller may have an additional sixty (60) days to correct the inaccuracies. If Seller is unable to correct all the inaccuracies within the period specified above, or Seller refuses to take the actions necessary to correct any or all of the inaccuracies, then the Buyer may either (i) cancel this Agreement in which event Buyer shall be entitled to the return of the Deposit and this Agreement shall terminate, or (ii) close on the Property, waive such inaccuracy and the Purchase Price shall remain unchanged.

6. Title and Survey.

(a) The Property shall be sold and accepted subject only to those certain matters identified below as "Permitted Exceptions." During the first one hundred (100) days of the Due Diligence Period, Buyer shall obtain a title insurance commitment (the "Title Commitment") for an owner's title insurance policy from a nationally recognized title insurance company of Buyer's choice (the "Title Company"). Buyer shall be responsible for and pay the cost of the title examination and the issuance of the Title Commitment and policy. Buyer shall, within ten (10) days of receipt of the Title Commitment inform Seller in writing as to any title defects or other objections regarding the Property that are disclosed by the Title Commitment and that, in Buyer's sole but reasonable discretion, adversely affect Buyer's intended use of the Property. Within ten (10) days of Seller's receipt of Buyer's notice of its objections to title or survey, Seller shall notify Buyer whether it is willing to cure Buyer's title objections ("Seller Title Notice"). If Seller is unwilling to cure Buyer's title objections, then Buyer may, at its option, either (i) terminate this Agreement by giving Seller written notice of such termination within 15 business days from receipt of the Seller Title Notice, or (ii) waive such objections and proceed to Settlement, with no reduction in the Purchase Price. If Buyer elects to terminate this Agreement pursuant to this Paragraph 6(a), the Deposit shall be refunded to Buyer, and the parties hereto shall have no further obligations or liabilities to one another hereunder, except as expressly set forth herein. All items of record not objected to by Buyer or waived by Buyer pursuant to this Paragraph 6(a) shall be "Permitted Exceptions." The Development Cooperation Agreement between Seller and Massaponax Land Company, LLC, a Virginia limited liability company, a copy of which is attached hereto as Exhibit



B (“Development Agreement”), shall be a Permitted Exception. However, any liens which may be satisfied by the payment of money shall not be Permitted Exceptions and shall be either paid by Seller prior to Settlement or paid by the Settlement Agent with funds received at Settlement.

(b) Seller has obtained and delivered to Buyer an ALTA survey of the Property. Buyer shall, within ten (10) days of receipt of the Title Commitment, notify Seller in writing of any objections to survey matters that, in Buyer’s sole discretion, adversely affect Buyer’s intended use of the Property. If Seller is unwilling or unable to cure Buyer’s survey objections to Buyer’s satisfaction, then Buyer may, at its option, either (i) terminate this Agreement by giving Seller written notice of such termination within fifteen (15) business days from receipt of the Seller Title Notice, or (ii) waive such objections and proceed to Settlement, with no reduction in the Purchase Price. If Buyer elects to terminate this Agreement pursuant to this Paragraph 6(b), the Deposit shall be refunded to Buyer, and the parties hereto shall have no further obligations or liabilities to one another hereunder, except as expressly set forth herein. All survey matters not objected to by Buyer or waived by Buyer pursuant to this Paragraph 6(b) shall be “Permitted Exceptions.”

7. Settlement. The closing of the purchase and sale contemplated in this Agreement or Phase 1 thereof (the “Settlement”) shall be held, via escrow with the Title Company serving as the settlement agent, twelve (12) months from the final approval of the Rezoning (hereafter defined) (“Settlement Date”). Time is of the essence. However, if Seller is correcting an inaccurate representation or warranty pursuant to Paragraph 5(i) or is curing a title or survey defect pursuant to Paragraph 6, the Settlement shall be held as soon as practicable after said inaccuracy or defect is either corrected or cured. Buyer shall have the right to extend the Settlement Date for two (2) periods of sixty (60) days each upon notice to Seller prior to the original or extended Settlement Date. Buyer shall deposit with Escrow Agent the sum of Fifty Thousand Dollars (\$50,000.00) for each extension which shall be added to and be a part of the Deposit and shall be applied to the Purchase Price at Settlement. In the event Buyer opts to close on the purchase of the Property in two (2) phases, then Phase 2 shall close no later than eighteen (18) months following the Settlement Date on the first phase (“Phase 2 Settlement Date”). At the Settlement on Phase 1, Buyer shall deposit with Escrow Agent the sum of Six Hundred Twenty-Five Dollars (\$625.00) for each multi-family unit which is included in Phase 2 and this Deposit shall apply to the Purchase Price at the Phase 2 Settlement Date. Buyer shall have the right to extend the Phase 2 Settlement Date for two (2) periods of sixty (60) days each upon notice to Seller prior to the expiration of the original or extended Phase 2 Settlement Date. Buyer shall deposit with Escrow Agent the sum of One Hundred Fifty Dollars (\$150.00) per unit which has been approved for the second phase for each extension which shall be part of the Deposit and shall be applied to the Purchase Price at the Phase 2 Settlement Date. In the event that the Rezoning has been obtained and is no longer subject to appeal, but Buyer fails to proceed to Settlement on the Settlement Date or Phase 2 Settlement Date, if applicable, either party shall have the right to terminate this Agreement by written notice to the other, whereupon the Deposit shall be released and forfeited to Seller, and neither party shall have any further obligation to the other except for such obligations as specifically survive termination of this Agreement due to no fault of either party.

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8. Seller's Deliveries. Seller shall deliver to the Title Company at Settlement, the following:

(a) A certificate that the representations and warranties set forth in paragraph 5 of this Agreement are true and correct on and as of Settlement and that Seller has performed all covenants and agreements to be performed on its part prior to Settlement.

(b) A Special Warranty Deed conveying the Property (including the 4.61 acre parcel described in Paragraph 5(b) hereof), based upon the description as shown on the subdivision plat approved prior to Settlement, free and clear of all liens and encumbrances, except the Permitted Exceptions, and free and clear of any obligations to any property owner's association which may be formed by Seller.

(c) An Affidavit as to mechanic's liens and possession as may be required by the Title Company.

(d) A non-foreign affidavit and the information required to file a Form 1099.

(e) An Assignment of the items described in paragraph 1(b) hereof.

(f) A Virginia Form R-5 or R-5E.

(g) A conditional assignment of a portion of Seller's rights and obligations under the Development Agreement, as defined herein, a copy of which is attached hereto as Exhibit C ("Conditional Assignment").

(h) A Settlement Statement.

Further, Seller shall deliver possession of the Property to Buyer upon completion of Settlement, in the condition required by this Agreement.

9. Buyer's Deliveries. Buyer shall deliver to Seller at the Settlement, the following:

(a) The Purchase Price as set forth in paragraph 2 hereof, which shall include the release to Seller of the Deposit held by the Escrow Agent and adjusted for the prorations required by Section 11 of this Agreement.

(b) An executed Settlement Statement.

10. Conditions to Settlement. This Agreement is expressly conditioned upon the satisfaction of the following conditions with regard to the Property prior to the expiration of the Due Diligence Period, unless otherwise specifically set forth herein:

(a) The boundary line adjustment depicted on Exhibit A to create the Property by virtue of an exchange of the parcels shown on Exhibit A with Massaponax Land Company, LLC ("Massaponax") shall have been approved by all applicable governmental authorities and recorded among the land records of Spotsylvania County, Virginia. Title to the Property will be conveyed

expressly subject to the terms and conditions of that certain Development Cooperation Agreement by and between Seller and Massaponax attached hereto as Exhibit "B" ("Development Agreement"), and Seller shall conditionally assign its rights and obligations under the Development Agreement to Buyer.

(b) Seller obtaining the release of the Property from any deed of trust or security agreement recorded against the Property.

(c) Seller obtaining the Rezoning of the Property to be conveyed to Buyer in accordance with Paragraph 16 hereof.

(d) Prior to the Settlement Date, Seller shall have closed on the purchase of the 4.61 acre parcel described in Paragraph 5(b) and shall be in the position to deliver the Deed required in Paragraph 8(b) hereof.

(e) Buyer obtaining all approvals from the County of the site plan which permits the construction of not less than 320 multi-family units ("Site Plan Approval").

11. Taxes, Assessments and Closing Costs.

(a) Taxes. All real estate taxes and other taxes payable upon the Property shall be prorated between Seller and Buyer as of midnight of the date of Settlement for the tax year in which the Settlement is held on the basis of the tax statements for the current year; provided, however, that if tax statements for the current year are not available as of Settlement, then the tax proration between Seller and Buyer shall be made on the basis of the taxes for the immediately prior tax year. Any rollback or land use taxes shall be paid by Seller at Settlement.

(b) Assessments. Seller shall pay on or before Settlement all installments becoming due prior to Settlement in respect of assessments against the Property or any part thereof for public improvements or other work and Buyer shall pay all unpaid installments becoming due on or after Settlement.

(c) Closing Costs. Buyer shall pay the costs of the title search and Title Commitment, premium for the title insurance policy, costs incurred in connection with Buyer's Inspections, the grantee's recording taxes, recording fees and one-half (1/2) of the fees of Escrow Agent, if any. Seller shall pay the Virginia Grantor's Tax, the costs of preparation of the Deed and Seller's closing papers, the fees and costs related to the preparation, approval and recording of the required subdivision of the Property from other property owned by Seller, the fees and costs to have the Property Rezoned and one-half (1/2) of the fees of Escrow Agent, if any. Buyer and Seller shall pay for their respective attorney's fees and costs.

12. Risk of Loss. All risk of loss as the result of any exercise of the power of eminent domain or by reason of fire or other casualty shall remain on the Seller until Settlement hereunder.

13. Default.

(a) In the event Buyer defaults in the purchase of the Property or otherwise defaults in the performance of Buyer's obligations hereunder, and Seller is not in default, then the Deposit shall be paid to Seller by Escrow Agent as liquidated damages as Seller's sole remedy, this Agreement shall be cancelled, and none of the parties hereto shall have any further rights against, or obligations to, the other parties, except as otherwise provided herein.

(b) In the event Seller defaults in the performance of Seller's obligations hereunder, and Buyer is not in default, then Buyer shall be entitled to exercise either of the following remedies, at Buyer's election, and no others: (i) to purchase the Property notwithstanding such default, in which event such default shall be deemed to be waived; (ii) to terminate this Agreement, in which event Buyer shall be entitled to the return of the Deposit and the parties shall have no further obligations hereunder, except as otherwise expressly provided herein; or (iii) to bring suit to compel specific performance of this Agreement.

(c) In the event of a default hereunder, the defaulting party shall pay the reasonable attorneys' fees, court costs and related costs incurred by the non-defaulting party in enforcing this Agreement, including any suit or action brought to enforce this Agreement, or any appeal therefrom.

14. Damage, Destruction and Condemnation.

(a) In the event that all or any substantial portion of the Property shall be taken in condemnation or transferred under the threat of condemnation before Settlement Seller shall give Buyer written notice thereof, whereupon Buyer may, at its option, by written notice to Seller delivered within fifteen (15) business days from receipt of Seller's notice, either (i) terminate this Agreement by delivering written notice thereof to Seller and receive an immediate refund of the Deposit or (ii) proceed to close the transaction contemplated herein pursuant to the terms hereof, in which event, the Purchase Price shall be reduced by Twenty Three Thousand Dollars (\$23,000.00) for each multi-family unit which cannot be constructed on the Property following the taking and Seller may retain the proceeds received from the condemning authority. For the purposes of this provision, a "substantial portion" of the Property shall be deemed to include any taking equal to or greater than 10% of the gross number of square feet contained in the Property, one which precludes the development of a minimum of 280 multi-family units or one which materially affects access to the Property.

(b) In the event that less than a substantial portion of the Property shall be taken in condemnation or transferred under the threat of condemnation before Settlement, then the parties shall proceed to close this transaction and the Purchase Price shall be reduced in the same manner as set forth in Paragraph 14(a).

15. Agents. Buyer represents that it has engaged no agent or broker in connection with this Agreement and the purchase and sale of the Property. It is understood by all parties hereto that principals of Buyer are Real Estate Brokers in the Commonwealth of Virginia, but no commissions will be paid to them in connection with the sale of the Property. Seller represents that it has engaged



Joyner Commercial Properties ("Agent") as its agent or broker in connection with this Agreement and Seller shall be solely responsible for the commissions payable to Agent at Settlement. Buyer shall indemnify, defend, and hold the Seller harmless from and against any claims for commissions, arising from the actions of Buyer in connection with this purchase and sale. Seller shall indemnify, defend and hold Buyer harmless from and against any claims for commissions arising from the actions of Seller in connection with this purchase and sale. This indemnity shall expressly survive Settlement hereunder.

16. Rezoning.

(a) Seller, at its sole cost and expense, shall use commercially reasonable efforts to prepare and submit an application to the County within ninety (90) days of the full execution of this Agreement for a rezoning of the Property to permit Buyer's intended use of the Property for the development of a multi-family property with not less than 320 units, a clubhouse, swimming pool and related amenities ("Rezoning"). Buyer shall cooperate with Seller in regard to preparing and submitting the Rezoning Application and pursuing the Rezoning, at no cost to the Buyer. However, Buyer will obtain, at its sole cost, architectural renderings and layouts of the proposed buildings and improvements. Upon the final approval of the Rezoning by the County and the expiration of any appeal period, Buyer shall deposit the additional sum of One Hundred Fifty Thousand Dollars (\$150,000) with Escrow Agent, which sum shall be added to and become a part of the Deposit and applied to the Purchase Price at Settlement.

(b) If Seller has not obtained the Rezoning within eighteen (18) months of the full execution of this Agreement, then Buyer or Seller may terminate this Agreement by written notice to the other party and to Escrow Agent and Buyer shall receive a refund of the Deposit. If either party elects to cancel this Agreement, this Agreement shall be of no further force or effect, except for the provisions hereof which expressly survive termination.

17. Infrastructure Costs. Attached hereto as Exhibit "D" and entitled "Roadway and Infrastructure Cost Estimate Palmer's Creek," prepared by Fairbanks and Franklin dated July 29, 2016, is the estimated scope of work and costs of the shared infrastructure improvements which are required for the development of the Property for Buyer's intended use ("Shared Infrastructure"). The cost estimate set forth on Exhibit "D" shall be finalized based on the final approved engineering design and final contractor's bids and the final amount shall be agreed to by the parties in the form of an amendment to this Agreement executed prior to or at Settlement. Seller will use its best efforts to obtain an agreement with the owner of the adjacent property to jointly install the Shared Infrastructure on a schedule so that the work to install the Shared Infrastructure has been completed prior to the Settlement Date. In the event the Shared Infrastructure has been completed prior to the Settlement Date, then, at Settlement, Buyer shall purchase said improvements from Seller for a maximum amount of Nine Hundred Twenty Two Thousand Eight Hundred Eighty Four and 00/100 Dollars (\$922,884.00), which shall be payable to Seller in addition to the Purchase Price. Also, Buyer shall assume responsibility for the costs associated with the installation of the traffic signal at the entrance of the Property at U.S. Route 1. In the event Seller has commenced the work to install the Shared Infrastructure but the Shared Infrastructure has not been completed by the Settlement Date, then Buyer shall deposit the sum of \$922,844.00 into escrow with Escrow Agent and Escrow Agent shall release those funds to Seller upon receipt of notice from the County that the Shared

Infrastructure has been substantially completed and any subdivision or similar performance bonds have been either released or converted to warranty bonds. In the event Seller has not completed the Shared Infrastructure within ninety (90) days of the Settlement Date, then Buyer reserves the right to take over the work to complete the Shared Infrastructure by written notice to Seller. In such event, (a) in accordance with the Conditional Assignment, Seller shall assign to Buyer and Buyer shall assume from Seller all of Seller's obligations with regard to the Shared Infrastructure under the Development Agreement, (b) Seller shall assign to Buyer and Buyer shall assume all of Seller's obligations for work which was not completed by the site contractor performing the Shared Infrastructure work on the effective date of the Conditional Assignment of Seller's contract with the site contractor performing the Shared Infrastructure work as defined in the Development Agreement ("Site Contract"), Seller shall pay the site contractor for work performed up to the date of the assignment of the Site Contract and billed but not yet paid (less retainage related to the work performed) and Seller shall cause the site contractor to release Seller from its obligations under the Site Contract, (c) Buyer shall substitute its own bonds and escrows for those posted with Spotsylvania County in connection with the approved site plan for the Shared Infrastructure as defined in the Development Agreement, (d) Buyer shall substitute its own Letter of Credit securing Massaponax Land Company, LLC, with the Escrow Agent under the Development Agreement in place of the Private Letter of Credit defined in the Development Agreement, and (e) Escrow Agent shall release to Buyer the amount required to pay the site contractor the amounts due for the period commencing when Buyer took over the work plus any balances which were billed to Seller but remain unpaid, any retainage and any change orders which increase the cost of the Shared Infrastructure under the Site Contract and the balance shall be released to Seller and applied to amounts Seller has paid to the site contractor performing the Shared Infrastructure work. In the event that the Shared Infrastructure work has not been commenced prior to the Settlement Date, then Buyer shall proceed with the Shared Infrastructure work, Buyer shall be solely liable for the costs to complete the Shared Infrastructure based on the scope of work specified on Exhibit "D." However, if the cost of the scope of work is greater \$922,884.00 and the Shared Infrastructure work has not been commenced by Seller, then Buyer shall reduce the Purchase Price by the additional costs incurred by Buyer to perform the increased scope of work above \$922,884.00.

18. Miscellaneous.

(a) This Agreement constitutes the entire Agreement between the parties hereto with respect to the transactions contemplated herein and it supersedes all prior discussions, understandings or agreements between the parties.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representatives, successors and assigns. Buyer may not assign this Agreement without Seller's prior written consent except that Buyer may assign this Agreement to an entity in which Buyer or its principals have a majority ownership interest without the consent of Seller.

(c) Failure by Buyer or Seller to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof.

(d) This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia.

(e) The paragraph headings as herein used are for convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth or limit the provisions or scope of any paragraph.

(f) All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or entity may require.

(g) To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart. It shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more such counterparts. All counterparts shall collectively constitute a single Agreement.

(h) All notices, requests, consents and other communications hereunder shall be in writing and shall be (i) personally delivered, (ii) mailed by certified mail, return receipt requested, postage prepaid, (iii) sent by overnight courier for next-day delivery, shipping charges prepaid or (iv) sent by electronic mail addressed as follows:

i. If to Buyer: Bonaventure Realty Group, LLC  
2700 South Quincy Street, Suite 500  
Arlington, Virginia 22206  
Attn: Mr. J.P. Hyland  
E-Mail: [jp.hyland@bonaventure.com](mailto:jp.hyland@bonaventure.com)  
Phone: 703-373-0906

with a copy to:  
Williams Mullen  
999 Waterside Drive, Suite 1700  
Norfolk, Virginia 23510  
Attn: Howard E. Gordon, Esq.  
E-Mail: [hgordon@williamsmullen.com](mailto:hgordon@williamsmullen.com)  
Phone: 757-629-0607

ii. If to Seller: Palmers Creek, LLC  
c/o Virginia Properties, Inc.  
6308 Five Mile Centre Park, Suite 215  
Fredericksburg, VA 22407  
Attn: Donn C. Hart  
Email: [d.hart@vapropertiesinc.com](mailto:d.hart@vapropertiesinc.com)  
Phone: 540-785-9090

with a copy to:  
Geary H. Rogers  
Compton & Duling, L.C.  
12701 Marblestone Drive, Suite 350  
Prince William, VA 22192  
Email: [ghr@comptonduling.com](mailto:ghr@comptonduling.com)  
Phone: 703-565-5168

iii. If to Escrow Agent: BridgeTrust Title Group  
One Columbus Center, Suite 400  
Virginia Beach, Virginia 23462  
Attn: Ms. Kris Cates  
E-Mail: [kcates@bridgetrusttitle.com](mailto:kcates@bridgetrusttitle.com)  
Phone: 757-605-2023

Any such notice, request, consent or other communications shall be deemed received at such time as it is personally delivered or upon sending, if it is mailed or sent by courier. Any notice required or permitted under this Agreement may be given by counsel for the party providing notice.

(i) Seller acknowledges that Buyer has an interest in both Seller's contract to purchase the 4.61 acre parcel described in Paragraph 5(b) hereof and in the Development Agreement as defined in Paragraph 10(b) hereof. Accordingly, Buyer is and shall be deemed a third party beneficiary of those agreements.

(j) The provisions of this Agreement shall survive the Settlement of the sale and purchase of the Property and delivery of the Deed for a period of one (1) year, except for those provisions which state that they expressly survive Settlement.

(k) The duties of Escrow Agent in its capacity as an escrow agent for the Deposit are only those as are herein specifically provided and Escrow Agent shall incur no liability whatsoever in the performance of said duties. Seller and Buyer hereby release Escrow Agent from any act done or omitted to be done by Escrow Agent in good faith in the performance of its duties hereunder. Seller and Buyer, and each of them, shall indemnify, defend and hold Escrow Agent harmless against all costs, damages, fees, expenses and liabilities which, in good faith, Escrow Agent may incur or sustain in connection with its duties as escrow agent under this Agreement.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures as of the date set forth below:

BUYER:

BONAVENTURE INVESTMENTS, LLC

Date: 9/9/2016

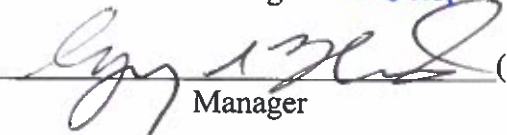
By:  (SEAL)  
Manager

SELLER:

PALMERS CREEK, LLC

Date: 9/8/16

By:  (SEAL)  
Manager *owner Broker*

By:  (SEAL)  
Manager

ESCROW AGENT:

BRIDGETRUST TITLE GROUP

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

By: \_\_\_\_\_ (SEAL)

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

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

31889420\_6

DDD



WITNESS the following signatures as of the date set forth below:

BUYER:

BONAVENTURE INVESTMENTS, LLC

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

By: \_\_\_\_\_ (SEAL)  
Manager

SELLER:

PALMERS CREEK, LLC

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

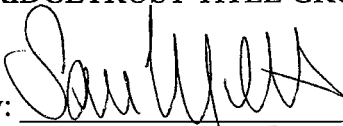
By: \_\_\_\_\_ (SEAL)  
Manager

By: \_\_\_\_\_ (SEAL)  
Manager

ESCROW AGENT:

BRIDGETRUST TITLE GROUP

Date: 9-9-16

By:  \_\_\_\_\_ (SEAL)

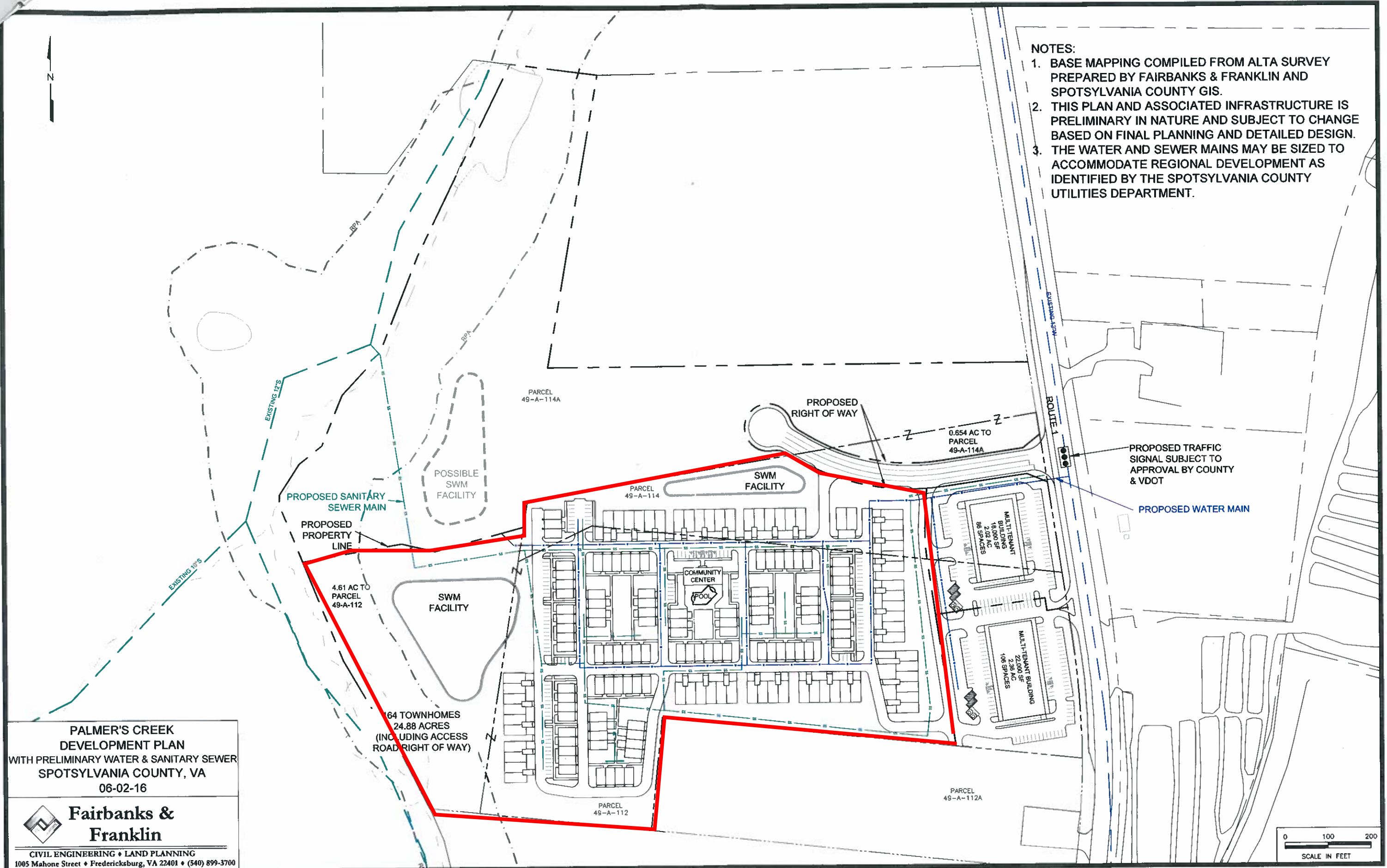
Name: Samantha Melton  
Title: Closer



# Exhibit A

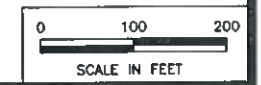
**NOTES:**

1. BASE MAPPING COMPILED FROM ALTA SURVEY PREPARED BY FAIRBANKS & FRANKLIN AND SPOTSYLVANIA COUNTY GIS.
2. THIS PLAN AND ASSOCIATED INFRASTRUCTURE IS PRELIMINARY IN NATURE AND SUBJECT TO CHANGE BASED ON FINAL PLANNING AND DETAILED DESIGN.
3. THE WATER AND SEWER MAINS MAY BE SIZED TO ACCOMMODATE REGIONAL DEVELOPMENT AS IDENTIFIED BY THE SPOTSYLVANIA COUNTY UTILITIES DEPARTMENT.



**PALMER'S CREEK  
DEVELOPMENT PLAN**  
WITH PRELIMINARY WATER & SANITARY SEWER  
SPOTSYLVANIA COUNTY, VA  
06-02-16

**Fairbanks & Franklin**  
CIVIL ENGINEERING • LAND PLANNING  
1005 Mahone Street • Fredericksburg, VA 22401 • (540) 899-3700



# Exhibit B

## DEVELOPMENT COOPERATION AGREEMENT

THIS DEVELOPMENT COOPERATION AGREEMENT is made this 19<sup>th</sup> day of August, 2016, by and between PALMERS CREEK, LLC, ("Palmers") a Virginia limited liability company, and MASSAPONAX LAND COMPANY, LLC, ("Massaponax") a Virginia limited liability company.

### RECITALS:

A. Palmers and Massaponax own adjacent parcels of real estate in the Massaponax area of Spotsylvania County, Virginia.

B. Palmers desires to proceed with the development of its land and Massaponax has agreed to assist Palmers with its development efforts.

C. The parties have agreed upon a scheme of joint development which involves:

- Palmers must obtain a rezoning of its property – the provisions of this Agreement are contingent upon a successful rezoning.
- Palmers will construct certain infrastructure which will be shared by Palmers and Massaponax.
- Palmers and Massaponax will swap land as herein described.
- Massaponax and Palmers will grant and release various easements to each other to facilitate the development of their respective properties.

D. The purpose of this Agreement is to set forth the terms of the joint development scheme.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Palmers and Massaponax do hereby agree as follows:





## 1. DEFINITIONS.

The following capitalized terms whenever used in this Agreement shall have the meanings set forth in this Section 1.

- (a) **“Agreement”** means this Development Cooperation Agreement.
- (b) **“Approved Rezoning”** means the zoning map amendment by the County of the Palmers Property, Palmers Addition and the Massaponax Addition for the Proposed Project, once the amendment has been approved by way of a duly adopted resolution of the Board of Supervisors of the County with the appeal period from such adoption of such resolution having expired.
- (c) **“Approved Rezoning Date”** means that date when the appeal period for the rezoning resolution expires.
- (d) **“BLA Deed”** means the deed of conveyance by which the parties execute the adjustments shown in the BLA Plat and in which (1) Palmers shall convey the Massaponax Addition to Massaponax, free and clear of all liens and encumbrances, by Special Warranty, and (2) Massaponax shall convey the Palmers Addition to Palmers, free and clear of all encumbrances, by Special Warranty, and (3) Massaponax shall release all of its interest in the 50-foot ingress/egress easement established by the instruments recorded in Deed Book 503 at page 589, Deed Book 577 at page 433 and as further reserved to Massaponax by the instrument recorded as Instrument No. 201100005018, all among the County land records.
- (e) **“BLA Plat”** means the plat which shows the adjustments of the boundary line between the Massaponax Property and the Palmers Property, by which the Massaponax Addition becomes a part of TM Parcel 49-A-114A, and the Palmers Addition becomes a part of TM Parcel 49-A-112 and/or 49-A-114.
- (f) **“Contract Assignment”** means a collateral assignment of the Site Work Contract under which Palmers assigns all of its interests in the Site Work Contract to Massaponax, free and clear of all liens and encumbrances.
- (g) **“County”** means Spotsylvania County, Virginia.
- (h) **“Deed of Dedication and Easement”** means the deed, in County approved form, which conveys to the County the following: fee simple title of the real estate under the Entrance

Road, easements for the Sanitary Sewer Easements, easements for the Sewer Connections, easements for the Water Connections, easements for SWM Facility 1, easements for SWM Facility 2, easements for the conveyance of stormwater to the stormwater management facilities, and any other easement required by the County or VDOT for the proper development of the Shared Infrastructure. Although the Traffic Signal is not part of the Shared Infrastructure, and may not be installed until a later date, if the parties are aware at the time of the approval of the Site Plan of additional fee simple or easements which will be required for the installation of the Traffic Signal, then such dedications and easements shall be included in this deed.

- (i) **“Development Plan”** means the plat attached to this agreement as Exhibit A entitled “Palmer’s Creek Development Plan Spotsylvania County, VA 08-16-16” (Sheet 1) and entitled “Palmer’s Creek Development Plan With Preliminary Water & Sanitary Sewer Spotsylvania County, VA 08-16-16” (Sheet 2) prepared by Fairbanks & Franklin which illustrates the proposed future development of the Palmers Property as well as the individual components of the Shared Infrastructure.
- (j) **“Engineer”** means the firm of Fairbanks and Franklin, at 1005 Mahone St., Fredericksburg, VA 22401, 540-899-3700, or such other engineering firm as agreed upon by the parties.
- (k) **“Entrance Road”** means the land and improvements required to create a public road from Route 1 into the Palmers Property and Massaponax Property in the location identified on the Development Plan as “Proposed Right of Way.” The Entrance Road shall include all turn lanes (on Route 1 and the entrance road) and all easements required to construct the road.
- (l) **“Escrow Agent”** means Stonewall Title & Escrow, Inc., at 9300 Grant Avenue, Suite 102, Manassas, VA 20110.
- (m) **“Escrow Agreement”** shall be a contract between Palmers, Massaponax and the Escrow Agent which shall provide that the Escrow Agent shall hold, in escrow, the Private Letter of Credit, Plans Assignment and Contract Assignment. The agreement shall provide, *inter alia*, that in the event that Palmer’s fails to meet the deadlines set forth in *Section 5* of this Agreement, then after thirty (30) days advance written notice and opportunity to cure

from Massaponax to Palmer's, with a copy to Escrow Agent, that Massaponax shall have the right to demand that Escrow Agent release the Letter of Credit, Plans Assignment and Contract Assignment to Massaponax.

- (n) **"Final Acceptance of Shared Infrastructure"** means when all of the Shared Infrastructure has been completed and has been accepted by the County and/or VDOT and the Public Letter of Credit has been fully released.
- (o) **"Final Acceptance of Traffic Signal"** means when all the Traffic Signal has been completed and has been accepted by the County and VDOT and all sureties required for the construction of the Traffic Signal have been fully released.
- (p) **"Massaponax"** means Massaponax Land Company, LLC, a Virginia limited liability company.
- (q) **"Massaponax Addition"** means that portion of the Palmers Property which Palmers shall convey to Massaponax which consists of 0.654 acres and is labeled "0.654 AC to Parcel 49-A-114A" on the Development Plan.
- (r) **"Massaponax Adjacent Property"** means the real estate known as Spotsylvania County Tax Map Parcel 49-A-115 which abuts the Massaponax Property and is owned by JPI-Martins Manor, LLC which is associated with Massaponax.
- (s) **"Massaponax Property"** means the real estate known as Spotsylvania County Tax Map Parcel 49-A-114A which is owned by Massaponax.
- (t) **"Memorandum"** mean a Memorandum of this Agreement in the form attached to this Agreement as **Exhibit C** which shall be executed and recorded at closing. Upon its recordation, each party shall insure that the Memorandum shall be superior in priority to all deeds of trusts and liens.
- (u) **"Palmers"** means Palmers Creek, LLC, a Virginia limited liability company.
- (v) **"Palmers Addition"** means that portion of the Massaponax Property which Massaponax will convey to Palmers which consists of 4.61 acres of land labeled "4.61 AC To Parcel 49-A-114A" on the Development Plan.
- (w) **"Palmers Property"** means the real estate known as Spotsylvania County Tax Map Parcels 49-A-112 and 49-A-114 which is owned by Palmers.

- (x) **“Plans Assignment”** means a collateral assignment of the Site Plan under which Palmers assigns all of its interests in the Site Plan to Massaponax, free and clear of all liens and encumbrances.
- (y) **“Private Letter of Credit”** means a letter of credit in favor of Massaponax from an institution which would be eligible to issue the Public Letter of Credit, to secure the construction of the Shared Infrastructure and its acceptance by VDOT and the County. The Private Letter of Credit shall be of an amount equal to one hundred ten percent (110%) of the price for the installation of the Shared Infrastructure set forth in the Site Work Contract. The Private Letter of Credit shall provide that as the work to install the Shared Infrastructure progresses, that Palmers shall have the right to reduce the amount of the Letter of Credit to no less than ten per cent (10.0%) of the cost to complete the Shared Infrastructure, as evidenced by progress payments made to the site work contractor pursuant to the Site Work Contract, with releases of liens from the contractor accompanied by certification by the Engineer that the work has been completed. In the event that Massaponax exercises its rights under the Private Letter of Credit, then (i) Massaponax shall proceed to complete the uncompleted portion of the Shared Infrastructure in accordance with Palmers’ responsibilities under this Agreement, (ii) Massaponax shall be entitled to an administrative fee equal to ten percent (10%) of all work performed under Massaponax’ management of the installation of the Shared Infrastructure, and (iii) Palmers shall, upon demand, reimburse Massaponax for all reasonable costs (including its administrative fee) incurred to complete the work called for in this Agreement which exceed the amount available to Massaponax to draw under the Private Letter of Credit.
- (z) **“Proposed Project”** means the overall development project that Palmers intends to build on the Palmers Property (less the Massaponax Addition) and Palmers Addition, to include at least 164 townhouses, and/or apartments and two commercial pad sites together with the Shared Infrastructure.
- (aa) **“Public Letter of Credit”** means the collective sureties to be required by the County, and/or VDOT, prior to the construction of the Shared Infrastructure, which shall be in a form satisfactory to the applicable agency.

- (bb) **“Release of Memorandum”** means a document which releases the Memorandum, to be in the form attached to this Agreement as **Exhibit D.**,
- (cc) **“Sanitary Sewer Easement”** shall mean the easement across the Massaponax Property for a public sewer main from the existing County sanitary sewer mains to the Palmers Property, labeled as “Prop. Sanitary Esmt” on that certain plat attached hereto as Exhibit B entitled “Exhibit Plat Palmers Creek, LLC Massaponax Land Co, LLC Courtland District Spotsylvania Co., VA” dated April 21, 2016 prepared by Webb and Associates. .
- (dd) **“Sewer Connections”** shall mean the public sanitary sewer mains which are to be installed from the existing County owned mains to the property line of the Massaponax Property and Massaponax Addition, as generally shown on the Development Plan as “Sewer Connection.”
- (ee) **“Shared Infrastructure”** means the Entrance Road, Water Connections, Sewer Connections, SWM Facility 1 and, if applicable, the SWM Facility 2. Shared Infrastructure excludes the Traffic Signal.
- (ff) **“Site Plan”** means the set of construction plans and all other plans, applications and permits required to construct the Shared Infrastructure.
- (gg) **“Site Work Contract”** shall mean the executed, bona-fide agreement between Palmers and a properly licensed and insured contractor for the installation of the Shared Infrastructure.
- (hh) **“Substantial Completion”** means that the work (and each of its components) has been sufficiently installed such that Palmers and Massaponax can utilize the work for its intended purpose, and each component of the work has been inspected and approved by the County and/VDOT, with only punchlist items remaining for total completion and acceptance by the County and/or VDOT.
- (ii) **“SWM Agreement 1”** means the contract required by the County for the future maintenance of SWM Facility 1.
- (jj) **“SWM Agreement 2”** means the contract required by the County for the future maintenance of SWM Facility 2.

- (kk) **“SWM Facility 1”** means the storm water management facility which is to be located on the Palmers Addition in the location shown on the Development Plan as “SWM Facility 1.”
- (ll) **“SWM Facility 2”** means the optional storm water management facility which is to be located on the Massaponax Property in the location shown on the Development Plan as “SWM Facility 2.”
- (mm) **“Traffic Signal”** means the proposed traffic signal at the intersection of the Entrance Road and Route 1, in the location shown on the Development Plan as “Proposed Traffic Signal.” Traffic Signal is not part of the Shared Infrastructure.
- (nn) **“VDOT”** shall mean the Virginia Department of Transportation.
- (oo) **“Water Connections”** shall mean the public water mains which are to be installed from the existing County owned mains to the property line of the Massaponax Property and Massaponax Addition, as generally shown on the Development Plan as “Water Connection.”

## 2. REZONING.

(a) **Contingency.** In the event that the Approved Rezoning has not been obtained within twenty-four (24) months from the full execution of this Agreement, Massaponax shall have the right to terminate this Agreement upon 30-days advance written notice to Palmers.

(b) **Rezoning Process.** As soon as practical after the full execution of this Agreement, Palmers, together with the cooperation of Massaponax as may be necessary or required, shall file an application with the appropriate authorities of the County for the purpose of rezoning a portion of the Palmers Property, less and except the Massaponax Addition, but including the Palmers Addition if necessary, to a residential category which shall permit the development of the Proposed Project. If required, Massaponax agrees to execute any and all applications for such rezoning and any and all proffer statements which may be required in order to obtain such rezoning. Any proffered conditions applicable to the Massaponax Addition or the Palmers Addition shall not restrict the use of the Massaponax Property, the Massaponax Addition or the Palmers Addition other than as set forth on Exhibit A. Any documents to be signed by Massaponax shall be subject to the approval of Massaponax, not to be unreasonably

withheld, conditioned or delayed. All costs and expenses of the rezoning shall be borne by Palmers.

### 3. SITE PLAN.

(a) **Site Plan and Project Documents.** Palmers shall, at its sole cost and expense, and with the cooperation of Massaponax, create the various documents required to complete the various transactions foreseen in this Agreement, including but not limited to: Site Plan, Deed of Dedication and Easement, BLA Plat, BLA Deed, SWM Agreement 1, SWM Agreement 2, Subdivision Agreement, Public Letter of Credit, Private Letter of Credit, Site Work Contract, Plans Assignment, Contract Assignment, and Escrow Agreement. Each of these documents shall be subject to the approval of Massaponax, which approval shall not be unreasonably withheld.

(b) **Site Plan Approval.** Within sixty (60) days of the Approved Rezoning Date, Palmers shall file with the County an application for the approval of the Site Plan. Palmers shall obtain Site Plan Approval within six (6) months of the filing of the site plan application.

(c) **Site Plan Requirements.** The Site Plan and other project documents shall take into account the following design considerations:

- i. Entrance Road. The Entrance Road shall be in the general location shown on the Development Plan; however, the specific design and location shall be subject to the detailed design constraints of VDOT and the County. Accordingly, the final location of the Entrance Road may differ from that shown on the Development Plan. If the Entrance Road requires temporary or permanent easements from third parties, then Palmers shall be solely responsible for the acquisition of such easements.
- ii. SWM Facilities. The Shared Infrastructure shall include sufficient stormwater management facilities to accommodate the total post-development runoff from the Palmers Property, Massaponax Property and Massaponax Adjacent Property. SWM Facility 1 and SWM Facility 2, if applicable will be designed assuming an impervious cover of seventy per cent (70.0%) for the Massaponax Property, Massaponax Addition and the Massaponax Adjacent Property. The specific design and location of SWM Facility 1 and SWM Facility 2 shall be subject to the



detailed engineering and approval by the County, so their final locations may differ from the locations shown on the Development Plan.

01. SWM Facility 1. SWM Facility 1 shall be the primary stormwater management facility. SWM Facility 1 shall be located on the Palmers Addition and shall include the installation of all methods of conveyance of the stormwater from the facility to the property line of the Massaponax Property. Palmers shall bear all costs of maintaining, repairing and replacing the facility. Massaponax shall not permit or allow any hazardous materials into the facility which would damage the facility. Palmers shall execute the SWM Agreement 1 with the County.
02. SWM Facility 2. SWM Facility 2 shall be the secondary stormwater management facility to be built if SWM Facility 1 cannot be designed to accommodate all of the post-development runoff of Palmers Property, Massaponax Property and Massaponax Adjacent Property. SWM Facility 2 shall be located on the Massaponax Property. Massaponax shall bear the costs of maintaining, repairing and replacing the facility, once the facility has been completed and accepted by the County. Massaponax shall enter into the SWM Agreement 2 with the County.
- iii. Sanitary Sewer. The Shared Infrastructure shall include the installation of public sanitary sewer mains from the existing County sewer mains to serve the Palmers Property, Massaponax Addition, and the Massaponax Property. The Sanitary Sewer Easement is intended to accommodate a public sanitary sewer main which serves those portions of the Palmers Property, Massaponax Addition, and Massaponax Property which can be served by gravity sewer to the County sewer main. The sanitary sewer main may be sized to serve other parcels as well, as determined by Palmers. The sanitary sewer shall include the Sewer Connections, which connects the Massaponax Property and Massaponax Addition to the existing public sewer mains. The specific location of the Sanitary Sewer Easement and the Sewer Connections as well as the number of Sewer Connections shall be subject to the detailed engineering, which shall consider the



avoidance of regulated wetland areas to minimize the costs of mitigation, and approval by the County, so its final location(s) may differ from the locations shown on the Development Plan.

- iv. Water Connections. The Shared Infrastructure shall include the installation of public water mains from the existing County water mains to serve the Palmers Property, Massaponax Addition, and the Massaponax Property. The water main may be sized to serve other parcels as well, as determined by Palmers. The water portion of the Shared Infrastructure shall include the Water Connections, which connects the Massaponax Property and Massaponax Addition to the existing public water mains. The specific location of the Water Connections as well as the number of Water Connections shall be subject to the detailed engineering and approval by the County, so its final location may differ from the locations shown on the Development Plan.

#### **4. CLOSING.**

Within sixty (60) days from County approval of the Site Plan, Massaponax and Palmers shall have a closing. Prior to the closing, Palmers shall have posted the Public Letter of Credit with the County and/or VDOT and shall have entered into the Site Work Contract. At closing, Palmers shall deliver the Private Letter of Credit, Escrow Agreement, Plans Assignment and Contract Assignment to the Escrow Agent. At closing, each party shall execute the BLA Plat, BLA Deed and Deed of Dedication and Easements, Memorandum and Release of Memorandum. The Escrow Agent shall promptly record the BLA Plat, BLA Deed, Deed of Dedication and the Memorandum, each of which shall be superior to any deeds of trusts or liens. The Escrow Agent shall hold the Release of Memorandum, which the Escrow Agent shall record upon the later of (i) Final Acceptance of the Shared Infrastructure, (ii) Final Acceptance of the Traffic Signal, or (iii) a certification by the Engineer that five (5) years have passed from the issuance of the first residential occupancy permit on the Palmers Property and that VDOT has officially determined that the Traffic Signal is not warranted.

#### **5. CONSTRUCTION OF SHARED INFRASTRUCTURE.**

The cost of wetlands mitigation shall be borne by the party on whose property any protected wetlands are located requiring mitigation in order to install the Shared Infrastructure. Palmers

shall bear all cost and expense of installing the Shared Infrastructure and having the Shared Infrastructure accepted by the County and/or VDOT.. Palmers agrees to complete construction of the Shared Infrastructure to a point of Substantial Completion in accordance with the approved Site Plan not later than four (4) months from the closing set forth in Section 4 . Substantial Completion of the Shared Infrastructure shall be evidenced by written confirmation from the Engineer, which shall include copies of all County and VDOT inspection/acceptance reports. The report shall be delivered to the parties hereto and to the Escrow Agent. Palmers shall post, at its cost and expense, all sureties (such as 1 year maintenance bonds) required by the County or VDOT to have any portion of the Shared Infrastructure accepted by the applicable agencies. Palmers shall complete all punchlist items and shall have all Shared Infrastructure accepted by the appropriate governmental agencies within one (1) year of the approval of the Site Plan.

## **6. TRAFFIC SIGNAL.**

Palmers and Massaponax desire that the Traffic Signal be installed. Palmers shall install, at its sole costs, the Traffic Signal. It is anticipated that the development of the Proposed Project along with the future potential development of the Massaponax Property and Massaponax Adjacent Property will generate sufficient vehicle traffic warrants to require the installation of the Traffic Signal at the time that the Proposed Project is constructed. However, the parties acknowledge that installation of the Traffic Signal is specifically subject to all necessary approvals for the construction of such traffic signal which may be required from both the County and VDOT. It is understood and agreed that Palmers shall not be allowed to construct such Traffic Signal until such time as all required warrants therefor have been met. In the event that the warrants for the construction of such Traffic Signal have not been met within five (5) years from the date of the first occupancy permit issued for the residential units constructed on the Palmers Property, Palmers shall have no further obligation for construction of such traffic signal.

If additional fee simple dedications or easements are required for the proper installation of the Traffic Signal, Massaponax and Palmers agree to use all reasonable efforts to make such dedications and grant such easements.

## **7. SPECIFIC PERFORMANCE.**

In addition to the other remedies set forth in this Agreement or available at law or in equity, any party hereto shall have the right to enforce any of the provisions of this Agreement by a suit for specific performance and/or an injunction and/or an action at law for damages, and the prevailing party in any such action shall have the right to recover all of its costs of enforcement from the nonprevailing party, including reasonable attorney's fees.

## 8. MISCELLANEOUS.

A. **No Partnership or Joint Venture.** Nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners, or creating or establishing the relationship of a joint venture, between Palmers and Massaponax, or as constituting either of them as the agent or representative of the other.

B. **Authority.** The undersigned persons executing and delivering this Agreement on behalf of Palmers and Massaponax represent and certify that they have been fully empowered and authorized to do the same.

C. **Notices.** Any notice, request or demand required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if delivered by hand by messenger at the address of the intended recipient, sent prepaid by Federal Express (or a comparable guaranteed overnight delivery service), or deposited in the United States first class mail (registered or certified, postage prepaid, with return receipt requested), addressed as follows:

For Palmers:                      Palmers Creek, LLC  
   Attn: Donn C. Hart, Jr.  
   Virginia Properties, Inc.  
   6308 Five Mile Centre Park  
   Suite 215  
   Fredericksburg, VA 22407

With a copy to:                      Geary H. Rogers  
   Compton & Duling, L.C.  
   12701 Marblestone Drive, Suite 350  
   Prince William, VA 22192  
   Email: [ghr@comptonduling.com](mailto:ghr@comptonduling.com)  
   Facsimile: 703-583-6066

For Massaponax:                      Massaponax Land Company, LLC

Attn: James E. Jarrell, III  
1005 Sophia Street  
Fredericksburg, VA 22401

With a copy to: Phillip Sasser, Jr.  
1008 Prince Edward Street  
Fredericksburg, VA 22401

D. **Assignment.** This Agreement may not be assigned by either party except upon the transfer of the fee simple title of the Palmers Property or the Massaponax Property, in which case this Agreement shall automatically be assigned to the grantee of the real estate. Assignment of the Agreement shall not relieve the original party from its obligations hereunder, unless all parties so agree, in writing.

E. **Severability.** Except as expressly otherwise provided in this Agreement, each and every covenant and agreement contained herein is, and shall be construed as, a separate and independent covenant and agreement, and, except as otherwise expressly provided herein, the breach of any such covenant or agreement by any party or beneficiary hereof shall not discharge or relieve any other party or beneficiary from their respective obligations to perform the same.

F. **Waiver.** A waiver of any provision hereof or default hereunder must be in writing, and no such waiver shall be implied from the failure of any party to respond to a request for waiver or by any omission by a party to take action in respect of any such default. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. A consent or approval to, or of, any act or request by another party requiring such consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act or request.

G. **Covenants Running With The Land.** This Agreement shall be considered a covenant running with the title to the Properties, and shall be binding upon and inure to the benefit of the heirs, successors, assigns, and successors in title to Palmers and Massaponax.

H. **No Merger.** None of the provisions of this Agreement, or the rights and obligations created hereby, is intended to nor shall it be, merged by reason of the fact that one party may at any time be the sole owner of the all portions of the real property described herein.

I. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the Properties and supersedes all prior and contemporaneous negotiations, agreements, written and oral, between the parties. This Agreement shall not be amended or modified and no waiver of any provision hereto shall be effective unless set forth in writing signed by the parties.

J. **Governing Law.** This Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Virginia.

K. **Indemnification.** Any party exercising its rights under this Agreement (“Indemnitor”) hereby agrees to indemnify, defend and hold the other party (“Indemnitee”) harmless from and against all liabilities, obligations, claims, damages, demands, penalties, causes of actions, costs and expenses, including, without limitation, reasonable attorney’s fees and litigation costs which the Indemnitee becomes obligated to pay on account of any claim or assertion of liability arising or alleged to have arisen out of any act or omission of the Indemnitor, its agents, contractors, subcontractors, servants, employees, licensees or invitees, provided such liabilities, obligations, claims, damages, penalties, costs and expenses do not arise from the acts or omissions of the Indemnitee or its agents.

## 9. CONSTRUCTION

A. The captions in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the document in which used or any provisions thereof.

B. The use of pronouns of any gender shall be deemed to include the masculine, feminine and neuter genders, and the use of pronouns in either the singular or the plural number shall be deemed to include the singular and plural, whenever the context so requires.

C. Each provision of this Agreement is severable from every other provision, and the invalidity of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of this Agreement is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and to the extent practicable, the provision shall be enforced.

D. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]

A handwritten signature in blue ink, consisting of several overlapping loops and lines, located in the bottom right corner of the page.

WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By: Donn C Hart  
Donn C. Hart, Manager

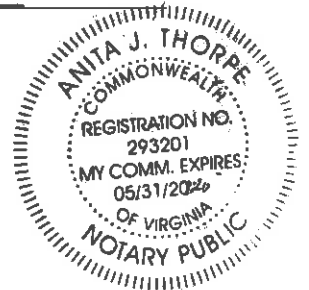
By: Thomas T Medsker  
Thomas T. Medsker, Manager

STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donn C. Hart, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J. Thorpe  
Notary Public



STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas T. Medsker, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J. Thorpe  
Notary Public



MASSAPONAX LAND COMPANY,  
LLC, a Virginia limited liability company

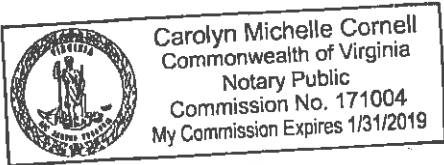
By: [Signature]  
James E. Jarrell, III  
Operating Manager

STATE OF VIRGINIA  
CITY OF FREDERICKSBURG, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that James E. Jarrell, III, whose name as Operating Manager of Massaponax Land Company, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 19<sup>th</sup> day of August, 2016.

My Commission Expires: Jan. 31, 2019  
Registration No. 171004

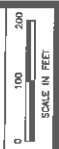
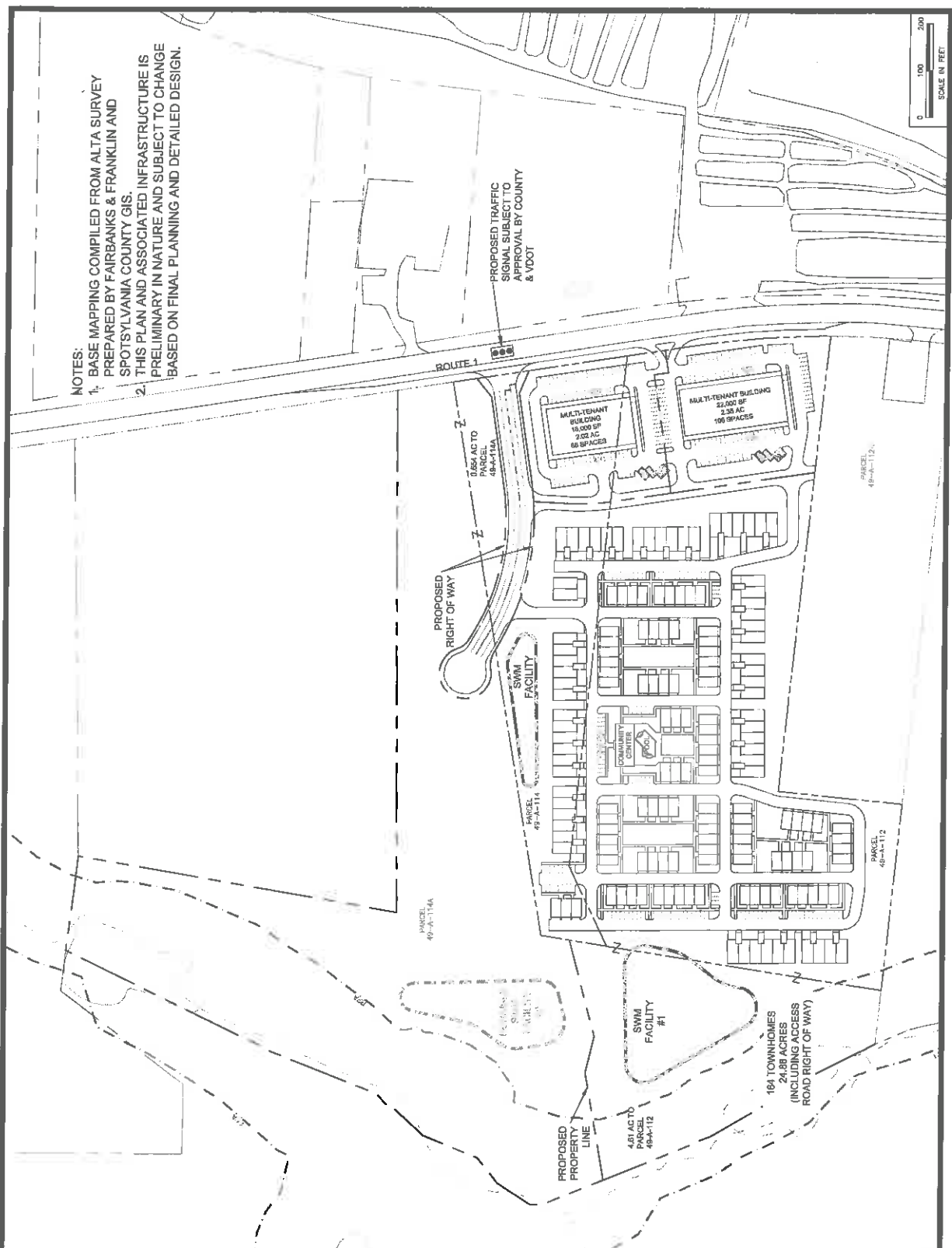
Carolyn Michelle Cornell  
Notary Public





**NOTES:**

1. BASE MAPPING COMPILED FROM ALTA SURVEY PREPARED BY FAIRBANKS & FRANKLIN AND SPOTSYLVANIA COUNTY GIS.
2. THIS PLAN AND ASSOCIATED INFRASTRUCTURE IS PRELIMINARY IN NATURE AND SUBJECT TO CHANGE BASED ON FINAL PLANNING AND DETAILED DESIGN.



**PALMER'S CREEK  
 DEVELOPMENT PLAN  
 SPOTSYLVANIA COUNTY, VA  
 08-18-16**

**Fairbanks &  
 Franklin**

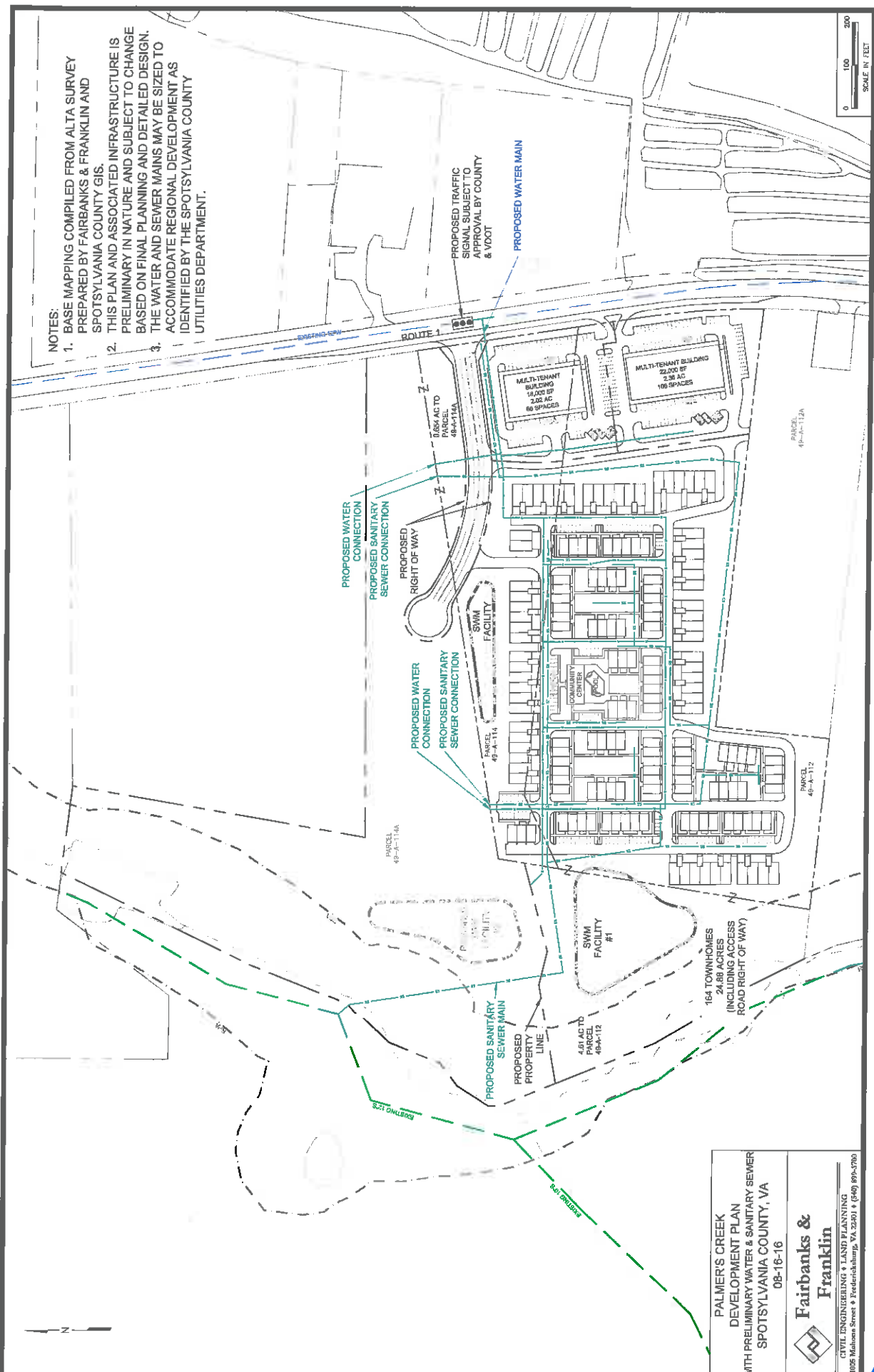
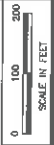
CIVIL ENGINEERING & LAND PLANNING  
 4018 Madison Street, • Fredericksburg, VA 22401 • (541) 895-3700

*(Handwritten signature)*

**A**

NOTES:

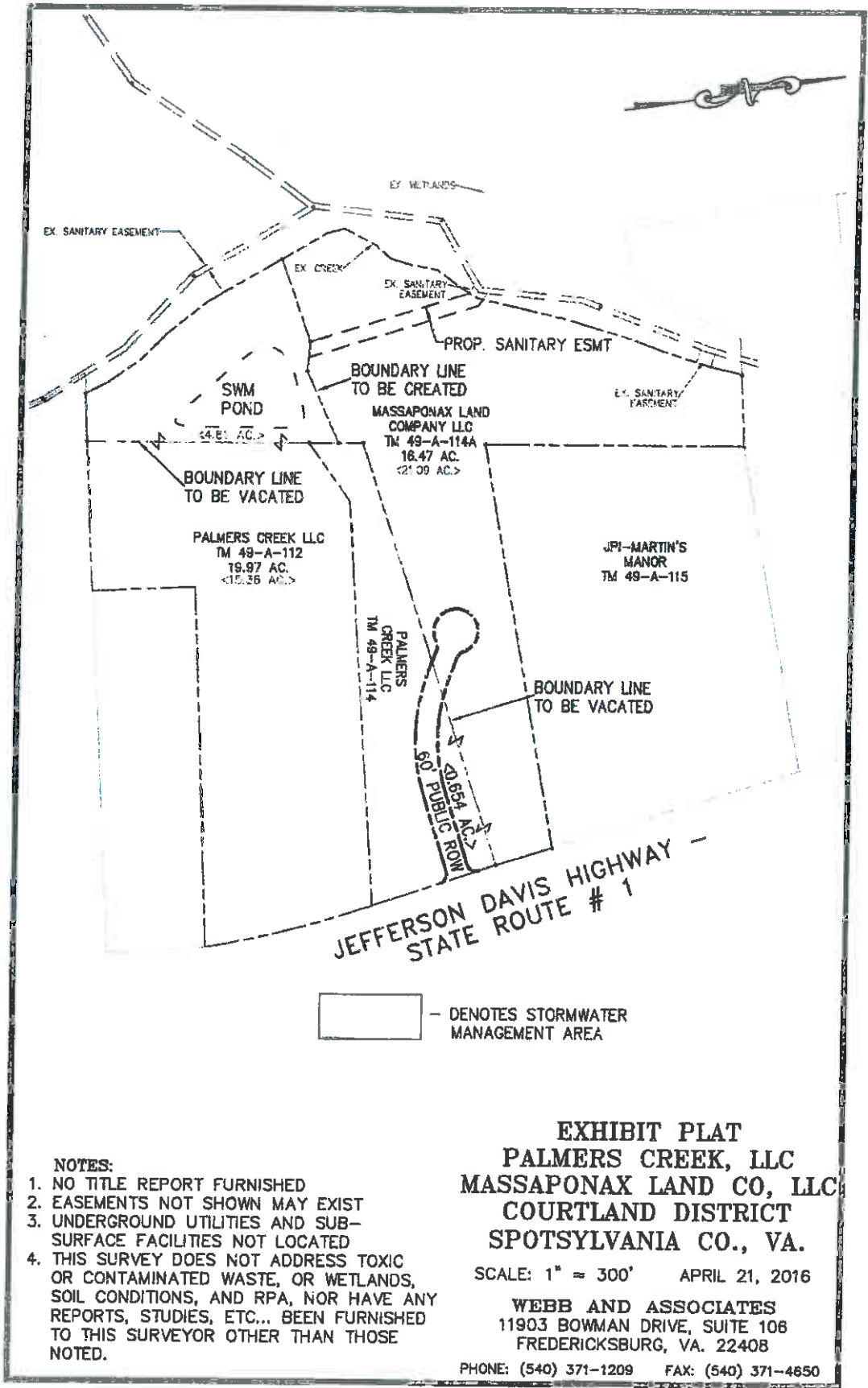
1. BASE MAPPING COMPILED FROM ALTA SURVEY PREPARED BY FAIRBANKS & FRANKLIN AND SPOTSYLVANIA COUNTY GIS.
2. THIS PLAN AND ASSOCIATED INFRASTRUCTURE IS PRELIMINARY IN NATURE AND SUBJECT TO CHANGE BASED ON FINAL PLANNING AND DETAILED DESIGN.
3. THE WATER AND SEWER MAINS MAY BE SIZED TO ACCOMMODATE REGIONAL DEVELOPMENT AS IDENTIFIED BY THE SPOTSYLVANIA COUNTY UTILITIES DEPARTMENT.



PALMER'S CREEK  
 DEVELOPMENT PLAN  
 WITH PRELIMINARY WATER & SANITARY SEWER  
 SPOTSYLVANIA COUNTY, VA  
 08-18-16



CIVIL ENGINEERING & LAND PLANNING  
 1005 Wilshire Street • Fredericksburg, VA 22401 • (540) 995-1700



**NOTES:**

1. NO TITLE REPORT FURNISHED
2. EASEMENTS NOT SHOWN MAY EXIST
3. UNDERGROUND UTILITIES AND SUB-SURFACE FACILITIES NOT LOCATED
4. THIS SURVEY DOES NOT ADDRESS TOXIC OR CONTAMINATED WASTE, OR WETLANDS, SOIL CONDITIONS, AND RPA, NOR HAVE ANY REPORTS, STUDIES, ETC... BEEN FURNISHED TO THIS SURVEYOR OTHER THAN THOSE NOTED.

**EXHIBIT PLAT  
PALMERS CREEK, LLC  
MASSAPONAX LAND CO, LLC  
COURTLAND DISTRICT  
SPOTSYLVANIA CO., VA.**

SCALE: 1" = 300'      APRIL 21, 2016

**WEBB AND ASSOCIATES**  
11903 BOWMAN DRIVE, SUITE 106  
FREDERICKSBURG, VA. 22408

PHONE: (540) 371-1209      FAX: (540) 371-4650

*[Handwritten signature]* B

**MEMORANDUM OF AGREEMENT**

THIS MEMORANDUM OF AGREEMENT (“Memorandum”) is made this 19<sup>th</sup> day of August, 2016, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Palmers”), and MASSAPONAX LAND COMPANY, LLC, a Virginia limited liability company (“Massaponax”).

**RECITALS:**

A. Palmers owns certain real property located in Spotsylvania County, Virginia (“County”) known as Spotsylvania County Tax Map Parcels 49-A-114 and 49-A-112 (“Palmers Property”).

B. Massaponax owns certain real property located in the County known as Spotsylvania County Tax Map Parcel 49-A-114A (“Massaponax Property”).

C. Palmers and Massaponax entered into that certain Development Cooperation, Easement and Boundary Line Adjustment Agreement (“Development Agreement”) of even date herewith pursuant to which Palmers and Massaponax agreed to rezone and jointly develop certain common shared infrastructure more particularly defined in the Development Agreement as the “Shared Infrastructure”, and to enter into a boundary line adjustment and conveyance of a certain portion of the Palmers Property from Palmers to Massaponax, and the conveyance of a certain portion of the Massaponax Property from Massaponax to Palmers, all as more particularly depicted on that certain Development Plan entitled “Palmer’s Creek Development Plan, Spotsylvania County, Virginia 06-02-16”, attached hereto as **Exhibit A**, prepared by Fairbanks & Franklin. The parties enter into this Memorandum to set forth notice of record of the existence of the Development Agreement, which imposes obligations upon both Massaponax and Palmers with respect to the rezoning and development of the properties described herein.

PREPARED BY AND RETURN TO:  
Compton & Duling, L.C.  
Geary H. Rogers / VSB #17137  
12701 Marblestone Drive #350  
Woodbridge, VA 22192



**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Palmers and Massaponax do hereby give notice of record of the existence of the Development Agreement, and the fact that both the Massaponax Property and the Palmers Property are subject to certain conditions of development and use more particularly set forth therein.

SIGNATURES ON FOLLOWING PAGES

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes, located in the bottom right corner of the page.

WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By: Don C Hart  
Donn C. Hart, Manager

By: Thomas T Medsker  
THOMAS T MEDSKER Manager

STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donn C. Hart, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17th day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J Thorpe  
Notary Public

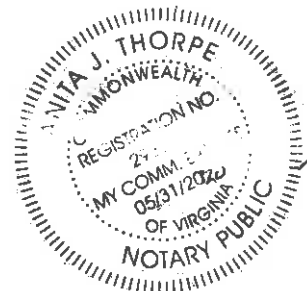


STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas T. Medsker, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17th day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

Anita J. Thorpe  
Notary Public



MASSAPONAX LAND COMPANY,  
LLC, a Virginia limited liability company

By: *James E. Jarrell III*, Manager

STATE OF Virginia  
COUNTY OF City of Fredericksburg to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that James E. Jarrell III, whose name as Manager of Massaponax Land Company, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 19<sup>th</sup> day of August, 2016.

My Commission Expires: Jan. 31, 2019  
Registration No. 171004

Carolyn Michelle Cornell  
Notary Public



**RELEASE OF MEMORANDUM OF AGREEMENT**

**THIS RELEASE OF MEMORANDUM OF AGREEMENT** (“Release”) is made and entered into this 19<sup>th</sup> day of August, 2016, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Palmers”), and MASSAPONAX LAND COMPANY, LLC, a Virginia limited liability company (“Massaponax”).

**RECITALS:**

A. Palmers and Massaponax entered into that certain Memorandum of Agreement recorded prior hereto as Instrument No. \_\_\_\_\_ among the land records of Spotsylvania County, Virginia (“Memorandum”).

B. The obligations of Palmers and Massaponax set forth in the Development Agreement, as defined, have been completed and the parties hereto desire to enter into this Release for the purpose of releasing the Memorandum as a matter of record.

**NOW, THEREFORE**, in consideration of the above Recitals, and in consideration of the completion of all obligations imposed upon Palmers and Massaponax by the Development Agreement, Palmers and Massaponax do hereby agree that the Palmers Property, as defined in the Memorandum, and the Massaponax Property, as defined in the Memorandum, are hereby released and discharged from all operation and effect of the Memorandum.

**SIGNATURES ON FOLLOWING PAGES**

PREPARED BY AND RETURN TO:  
Compton & Duling, L.C.  
Geary H. Rogers / VSB #17137  
12701 Marblestone Drive #350  
Woodbridge, VA 22192





WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By: *Donn C. Hart*  
Donn C. Hart, Manager

By: *Thomas T Medsker*  
*THOMAS T MEDSKER*, Manager

STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donn C. Hart, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

*Anita J. Thorpe*  
Notary Public



STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

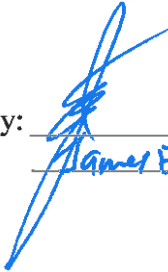
I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas T. Medsker, whose name as Manager of Palmers Creek, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 17<sup>th</sup> day of August, 2016.

My Commission Expires: May 31, 2020  
Registration No. 293201

*Anita J. Thorpe*  
Notary Public



MASSAPONAX LAND COMPANY,  
LLC, a Virginia limited liability company

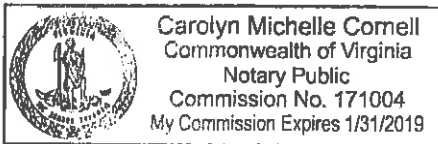
By: , Manager

STATE OF Virginia  
COUNTY OF City of Fredericksburg to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that James E. Tarrell III, whose name as Manager of Massaponax Land Company, LLC, is signed to the foregoing Agreement, has personally acknowledged the same before me in my aforesaid jurisdiction this 19<sup>th</sup> day of August, 2016.

My Commission Expires: Jan. 31, 2019  
Registration No. 171004

Carolyn Michelle Cornell  
Notary Public



# Exhibit C

## CONDITIONAL ASSIGNMENT OF DEVELOPMENT COOPERATION AGREEMENT

THIS CONDITIONAL ASSIGNMENT (“Assignment”) is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between PALMERS CREEK, LLC (“Assignor”) and BONAVENTURE INVESTMENTS, LLC, or Assigns (“Assignee”) provides as follows:

WHEREAS, Assignor and Assignee have entered into an Agreement for Purchase and Sale dated \_\_\_\_\_, 2016 (the “Agreement”) covering a certain parcel of land in Spotsylvania County, Virginia, containing approximately 25 acres, as more particularly described in the Agreement; and

WHEREAS, Assignor has entered into a Development Cooperation Agreement dated \_\_\_\_\_, 2016 (the “DCA”) with Massaponax Land Company, LLC (“Massaponax”) in which Massaponax has agreed to exchange certain parcels of land with Assignor and, upon completion of said exchange, Massaponax and Assignor have agreed to construct certain infrastructure improvements being defined as “Shared Infrastructure” in the DCA and, with the exception of the Traffic Signal listed on Exhibit A, attached hereto; and

WHEREAS, closing by Assignee on the Agreement with Assignor is contingent on Assignor closing on the exchange of land with Massaponax; and

WHEREAS, Section 17 of the Agreement sets forth the obligations of Assignor and Assignee with regard to the construction of the Shared Infrastructure and rights of Assignee in the event Assignor has not completed the Shared Infrastructure within certain time frames set forth in Section 17 of the Agreement; and

WHEREAS, Section 17 of the Agreement further provides for Assignor to assign conditionally to Assignee certain of its rights and obligations under the DCA; and

WHEREAS, Assignor and Assignee desire to enter into this Assignment to implement the terms of Section 17 of the Agreement;

NOW THEREFORE, in consideration of the premises, the Agreement and the mutual benefits to ensue herefrom, Assignor and Assignee hereby agree as follows:

1. Provided Assignee has closed with Massaponax pursuant to the terms of the DCA, then Assignor hereby assigns to Assignee, subject to the terms hereof, all of Assignor’s rights and obligations with respect to Section 5 of the DCA entitled “Construction of Shared Infrastructure.” Assignee hereby accepts Assignor’s assignment of its rights and obligations under Section 5 of the DCA and, subject to the terms hereof, assumes all of Assignor’s obligations thereunder.

2. This Assignment and its effectiveness are contingent upon (i) Assignor closing on the exchange of parcels with Massaponax pursuant to the DCA, (ii) Assignee closing on the purchase of the property, as described in the Agreement, and (iii) Assignor either commencing the construction of the Shared Infrastructure and failing to complete it or failing to commence construction of the Shared Infrastructure (both as described in Section 17 of the Agreement). If any of these events does not occur in accordance with the terms of either the DCA or the Agreement, as may be applicable, this Assignment shall automatically be null and void and of no further force and effect.

3. This Assignment shall inure to the benefit of, and be binding upon, each of the parties hereto and their respective successors and assigns. Assignee shall have the right to assign this Assignment to the same assignee to which it assigns the Agreement.

4. This Assignment shall be governed by the laws of the Commonwealth of Virginia, exclusive of any conflict of laws provisions.

5. This Assignment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument, and electronic and facsimile signatures shall be deemed to be original signatures and of the same force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have each executed this Assignment as of the day and year first written above, with the intention of creating an agreement under seal.

ASSIGNOR: PALMERS CREEK, LLC

By: \_\_\_\_\_(SEAL)  
Manager

By: \_\_\_\_\_(SEAL)  
Manager

ASSIGNEE: BONAVENTURE INVESTMENTS, LLC

By: \_\_\_\_\_(SEAL)  
Manager

# Exhibit D

## ROADWAY AND INFRASTRUCTURE COST ESTIMATE

### PALMER'S CREEK

Prepared By: Fairbanks & Franklin

Date: 07/29/16

DESCRIPTION	QUANTITY	UNITS	COST/UNIT	AMOUNT	SUBTOTALS
<b>DRAINAGE AND STORMWATER MANAGEMENT</b>					
15" RCP	1,100	LF	\$40.00	\$44,000.00	\$317,000.00
18" RCP	600	LF	\$45.00	\$27,000.00	
24" RCP	400	LF	\$55.00	\$22,000.00	
36" RCP	400	LF	\$95.00	\$38,000.00	
INLETS/MANHOLE(S)	12	EA	\$3,000.00	\$36,000.00	
STORMWATER MANAGEMENT POND(S)	1	EA	\$150,000.00	\$150,000.00	
<b>WATER SYSTEM</b>					
12" DIA D.I.P.	460	LF	\$86.00	\$39,560.00	\$79,980.00
24" Steel CP (Jack and Bore)	80	LF	375	\$30,000.00	
VALVES	3	EA	\$1,500.00	\$4,500.00	
FIRE HYDRANT ASSEMBLY	2	EA	\$2,960.00	\$5,920.00	
<b>SANITARY SEWER</b>					
8" DIA. PVC MAIN	3,000	LF	\$32.00	\$96,000.00	\$141,500.00
SEWER MANHOLE	13	EA	\$3,500.00	\$45,500.00	
<b>ROADWAY</b>					
1.5" BITUMINOUS CONC. SURFACE COURSE SM-12.5	370	TN	\$85.00	\$31,450.00	\$664,404.00
3" BITUMINOUS CONC. INTERMEDIATE COURSE IM-19.0	750	TN	\$80.00	\$60,000.00	
6.0" AGGREGATE BASE COURSE 21-B	1,380	TN	\$30.00	\$41,400.00	
CURBING	2,400	LF	\$15.00	\$36,000.00	
2" BITUMINOUS CONC. SURFACE COURSE SM-12.5	890	TN	\$85.00	\$75,650.00	
4" BITUMINOUS CONC. INTERMEDIATE COURSE IM-19.0	601	TN	\$80.00	\$48,104.00	
6" BITUMINOUS CONC. BASE COURSE BM-25.0	900	TN	\$65.00	\$58,500.00	
8.0" AGGREGATE BASE COURSE 21-B	1,110	TN	\$30.00	\$33,300.00	
TRAFFIC SIGNAL	1	LS	\$180,000.00	\$180,000.00	

TOTAL

\$1,102,884.00

- Notes:
1. Costs are order of magnitude estimates for budgeting purposes only
  2. Costs are associated with the following :
    - a. Road frontage improvements along Route 1
    - b. Single left turn
    - c. Traffic signal
    - d. 4 lane entrance road to cut-de-sac
    - e. Waterline extension from Route 1 into property along entrance road
    - f. Sanitary sewer main extension to Route 1 and adjacent property
    - g. Regional stormwater management

## **SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE**

**THIS SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE** (“Amendment”) is made this 6th day of July 2018, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Seller”), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company, or Assigns (“Buyer”).

### **RECITALS:**

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale (“Agreement”) fully executed September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement (“Property”).

B. The Agreement was amended by that certain First Amendment to Agreement for Purchase and Sale dated August 28, 2017.

C. Seller and Buyer desire to further amend the Agreement as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. The ninth sentence of Paragraph 6 (a) of the Agreement is hereby amended to reflect that the Amended and Restated Development Cooperation Agreement between Seller and Massaponax Land Company, LLC, dated April 24, 2018, and the Amended Memorandum of Agreement dated April 24, 2018, attached hereto as Exhibit B-1, is hereby substituted for Exhibit B to this Agreement and shall henceforth be considered the “Development Agreement” for all purposes of this Agreement and shall be deemed a Permitted Exception.

2. All references in the Agreement to the Development Cooperation Agreement are hereby amended to read the “Amended and Restated Development Cooperation Agreement” and all references to Exhibit B are hereby amended to read “Exhibit B-1.”



3. Paragraph 16(b) of the Agreement is hereby amended to read as follows:

If Seller has not obtained the Rezoning within 34 months from the full execution of this Agreement, then Buyer or Seller may terminate this Agreement by written notice to the other party and to Escrow Agent, and Buyer shall receive a full refund of the Deposit. If either party elects to cancel this Agreement, this Agreement shall be of no further force or effect, except for the provisions hereof which expressly survive termination.

4. The following paragraph designated as 16(c) is hereby inserted into the Agreement:

(c) If Seller has not obtained a resolution from the Board of Supervisors inducing the issuance of housing revenue bonds on which the interest is exempt from income taxes within ninety (90) days of the approval of the Rezoning of the Property by the Board of Supervisors, then Buyer may terminate this Agreement by written notice to Seller and to Escrow Agent and Buyer shall receive a refund of the Deposit. If Buyer elects to terminate this Agreement, this Agreement shall be of no further force or effect except for the provisions hereof which expressly survive termination.

5. Paragraph 17 of the Agreement entitled "Infrastructure Costs" is hereby designated as Paragraph 17(a) of the Agreement.

6. The following paragraph designated as 17(b) and entitled "Traffic Signal Escrow" is hereby inserted into the Agreement:

(b) In addition to the obligations of Buyer and Seller set forth in Paragraph 17(a) above, at Settlement, Buyer shall deposit into escrow with Escrow Agent the sum of \$250,000.00 ("Traffic Signal Escrow") to reimburse Seller for a portion of the additional funds that Seller is required to deposit in escrow for the benefit of Massaponax Land Company, LLC, pursuant to Section 6 of the Development Agreement and designated therein as the "Signal Escrow Fund." The Traffic Signal Escrow shall be held in escrow and disbursed by Escrow Agent in accordance with the terms and conditions of Section 6 entitled "Traffic Signal Provisions" of the Development Agreement. If VDOT permitted and VDOT approved construction has not commenced upon either the Traffic Signal or the Alternate Site Traffic Signal within ten (10) years from closing under Seller's Agreement with Massaponax Land Company, LLC, then Escrow Agent shall return the Traffic Signal



Escrow to Buyer. Capitalized terms used, but not defined, in this Paragraph 17(b) shall have the meaning ascribed to them in Section 6 of the Development Agreement.

7. The following provision is hereby inserted into Paragraph 1(a) at the end of clause (ii):

...including, but not limited to, a non-exclusive easement for ingress to and egress from the Land on and over (x) the access road running generally east-west from the Land to Jefferson Davis Highway designated as "Private Street" on the plan entitled, "Palmer's Creek Generalized Development Plan for Rezoning" dated 2-22-18 prepared by Fairbanks and Franklin, attached hereto as Exhibit A-1 and incorporated herein by this reference and (y) the access road running generally north-south along the eastern boundary of the Land and designated as "Private Street" on Exhibit A-1.

8. The eighth sentence in Paragraph 2 related to the purchase of the Property in phases is hereby deleted and the following inserted in lieu thereof:

It is understood and agreed that Phase 1 shall include Building 1, Building 2 and the Clubhouse and swimming pool shown on Exhibit A-1, together with sufficient acreage for the infrastructure required for the 200 units in Phase 1 in accordance with a site plan which is consistent with the application for Rezoning and approved by the County for the development of all units approved pursuant to the Rezoning, which acreage for the infrastructure may be located on Phase 2 and addressed in the Reciprocal Easement and Cost Sharing Agreement described herein.

9. The following subparagraph designated (i) is hereby inserted at the end of Paragraph 8:

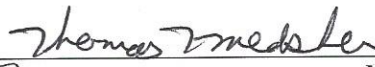
(i) A Reciprocal Easement and Cost Sharing Agreement conveying to Buyer the easements or rights-of-way as described in items (i) and (ii) of subparagraph 1(a) herein.

10. Except as expressly amended herein, all of the terms, covenants and conditions of the Agreement, as previously amended, shall be and remain in full force and effect.

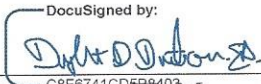
WITNESS the following signatures and seals:

**PALMERS CREEK, LLC**, a  
Virginia limited liability company

By:  (SEAL)  
Donn C. Hart, Manager

By:  (SEAL)  
Thomas T. Medsker, Manager

**BONAVENTURE INVESTMENTS,  
LLC**, a Virginia limited liability company

By:  (SEAL)  
Dwight D. Dunton, III, Manager

## **FIRST AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE**

**THIS FIRST AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE** (“Amendment”) is made this 28th day of August 2017, by and between PALMERS CREEK, LLC, a Virginia limited liability company (“Seller”), and BONAVENTURE INVESTMENTS, LLC, a Virginia limited liability company (“Buyer”).

### **RECITALS:**

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale (“Agreement”) fully executed on September 9, 2016, wherein Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, certain real property located in Spotsylvania County, Virginia, being a parcel containing approximately 25 acres as shown and outlined generally in red on Exhibit A to the Agreement (“Property”).

B. Seller and Buyer desire to amend the Agreement as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the above Recitals, which are incorporated herein by this reference as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby amend the Agreement as follows:

1. The first sentence of Paragraph 4(b) of the Agreement is hereby amended to read as follows:

(b) For the period commencing on the date of the full execution of this Agreement and ending on the later of (i) September 8, 2017, or (ii) the rezoning of the Property as described in Paragraph 16 hereof has been finally approved by the County’s Board of Supervisors and said approval is not subject to appeal (the “Due Diligence Period”), Buyer shall have the right to terminate this Agreement, if as the result of Buyer’s Inspections or for any other reason, Buyer determines, in its sole and absolute discretion, that it is not in Buyer’s interest to purchase the Property.

2. Paragraph 16(b) of the Agreement is hereby amended to read as follows:

If Seller has not obtained the Rezoning within twenty-eight (28) months from the full execution of this Agreement, then Buyer or Seller may terminate this Agreement by written notice to the other party and to Escrow Agent and Buyer shall receive a full refund of the Deposit. If either party elects to cancel this Agreement, this Agreement shall be of no further force or effect, except for the provisions hereof which expressly survive termination.

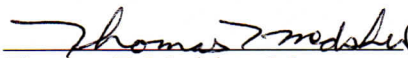
3. Except as expressly amended hereby, the Agreement shall be and remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures and seals:

PALMERS CREEK, LLC, a  
Virginia limited liability company

By:  (SEAL)  
Donn C. Hart, Manager

By:  (SEAL)  
Thomas T. Medsker, Manager

BONAVENTURE INVESTMENTS,  
LLC, a Virginia limited liability company

By:   
Dwight D. Dunton, III, Manager

34186461\_2

**EXHIBIT "A"**

**ALL THAT certain lot, piece or parcel of land situated, lying and being in Spotsylvania County, Virginia, and designated as "Parcel 1 9.525 Acres" on that certain plat entitled "Article 13 Subdivision Plat on the Lands of Palmers Creek, LLC, LR 200600010842, Courtland Magisterial District, Spotsylvania County, Virginia," dated April 30, 2019, and recorded in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia, on June 14, 2019, as Instrument Number 19-9088.**

*For Informational Purposes Only:*

**Property Address: 8936, 8934 & 8932 Jefferson Davis Highway, Fredericksburg, VA 22407**

**Tax ID: 49-A-112**

*(With Virginia modifications)*

*Adopted 08-01-2016  
Technical Corrections 04-02-2018*

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Fidelity National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*

Page 2 of 10

# Spotsylvania, Virginia

Parcel ID Number (PIN):	Property Address:	Owner:	Billing Address:
49-A-112	8936 Jefferson Davis HWY 8934 & 8932 Jeff Davis HW	Palmers Creek LLC No Data	6308 Five Mile Centre PARK FREDERICKSBURG, VA 22407

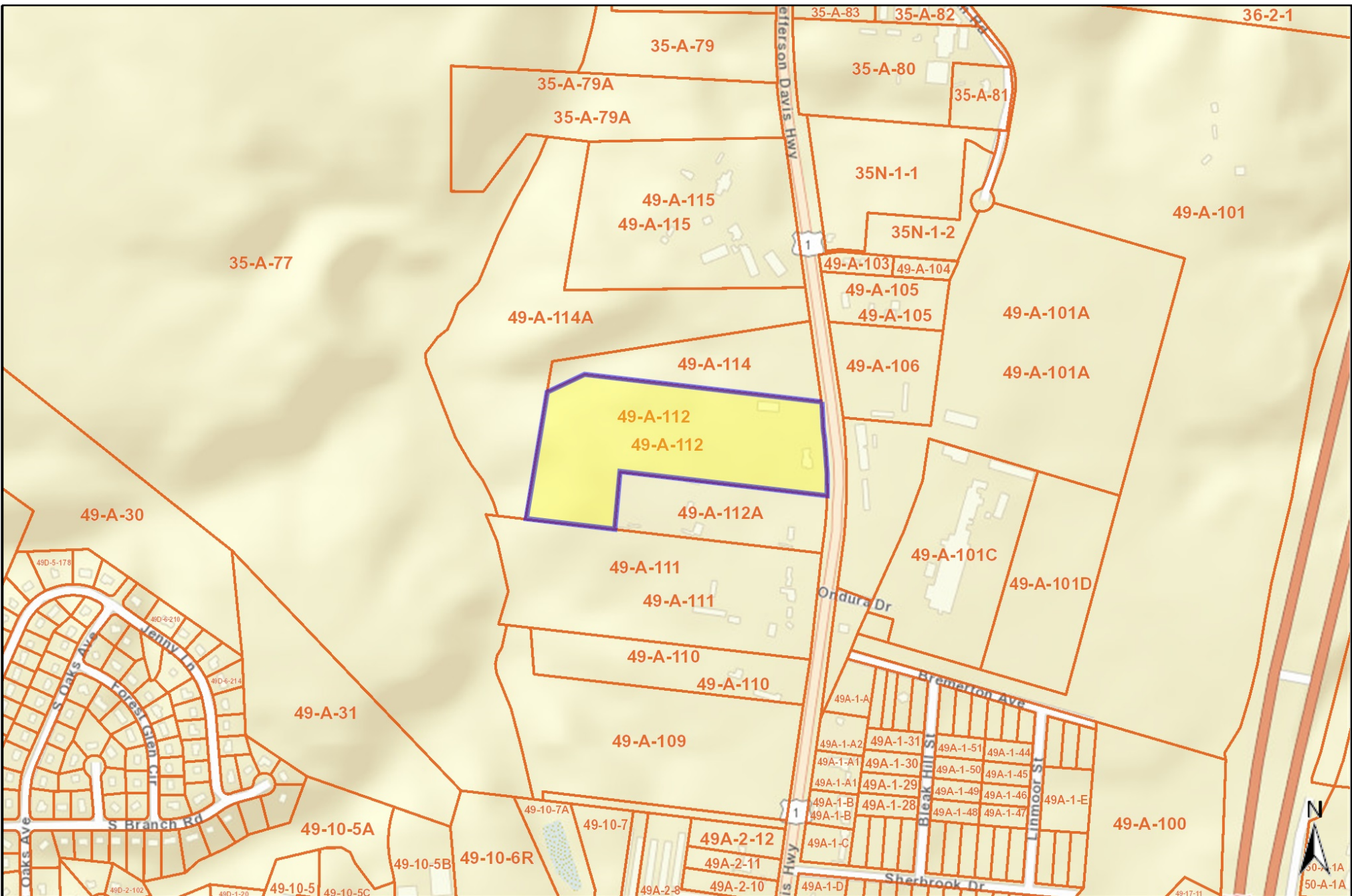
General Information		Voting District Information	
Subdivision:	-	Voting:	Lee Hill
Legal Description 1:	adj Martin	Precinct:	PARKSIDE
Legal Description 2:	No Data	State House:	54
Legal Land Area:	15.00	State Senate:	17
		Congressional:	07
		Polling Place:	PARKSIDE ELEMENTARY SCHOOL
		Polling Address:	5620 SMITH STATION ROAD
		<p>This information listed above is based upon the location of the selected parcel in relation to the voting districts and is provided for general information purposes only. Since voting districts generally do not follow neatly along property lines, you can verify your voting location by using the map. Any specific questions about where you vote should be directed to the Spotsylvania County Voter Registrar's Office at (540) 507-7380.</p>	

Census		School Information	
Magisterial:	COURTLAND DISTRICT	Elementary School:	Parkside Elementary
Census Block:	2022,2025,2033	Middle School:	Spotsylvania Middle
Census Tract:	203.06	High School:	Massaponax High
TAZ:	3492	<p>School information is based upon the location of the selected parcel in relation to the school districts and is provided for general information purposes only. Please verify with the Spotsylvania County School Administration Office's Bus Stop Information Website.</p>	
First Due :	8		

Land Development		Environmental Constraints	
Zoning:	C-3	Resource Protection Area (RPA):	N
AgForestral District:	N	FEMA 100 Year Flood Plain:	N
Airport Protection Overlay District:	N	Watershed:	E20
Historic Overlay District:	N	SubWatershed:	RA47
Highway Corridor Overlay District:	Y	<p>This information found here is provided for general reference purposes only and does not constitute an actual flood plain or RPA determination. This information is based upon the location of the selected parcels in relation to the FEMA 100 year Flood Plain or the Spotsylvania County's Resources Protection Area (RPA). Please contact a licensed professional engineer or surveyor for determination of how your property is affected by the Flood Plain or RPA.</p>	
Reservoir Protection Overlay District:	N		
River Protection Overlay District:	N		
<p>Information found here is provided for general reference purposes and does not constitute a written zoning determination. Please contact Zoning Office at (540)507-7222 for official zoning determinations.</p>			

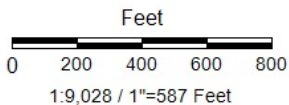
Assessment(2018)		<p>Assessment Information is provided for general information purpose only. Please verify with Spotsylvania County Commissioner of Revenue Assessments Office <a href="http://www.spotsylvania.va.us/cor/realestate/assessmentsearch">http://www.spotsylvania.va.us/cor/realestate/assessmentsearch</a></p>
Building Assessment:	\$	
Land Assessment:	\$914,800	
Year Built:	0	
Sq Footage:	No Data	
Transfer Date:	03/30/2006	
Instrument Number:	200600010842	
Book Number:	No Data	
Page:	No Data	





**Title: Parcel View**

**Date: 3/12/2019**



*DISCLAIMER: The geographic data you are about to access are electronic public records as defined by the Code of Virginia, 1950, Section 2.2-3704. This information is made available as a public service. Spotsylvania County assumes no responsibility for any action or actions taken by users of this information. Spotsylvania County shall not be liable to the user or to any other person for the use or misuse of this data. This information is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. If you believe any data provided is inaccurate, please inform the GIS Division by e-mail at [gis@spotsylvania.va.us](mailto:gis@spotsylvania.va.us)*





# Spotsylvania, Virginia

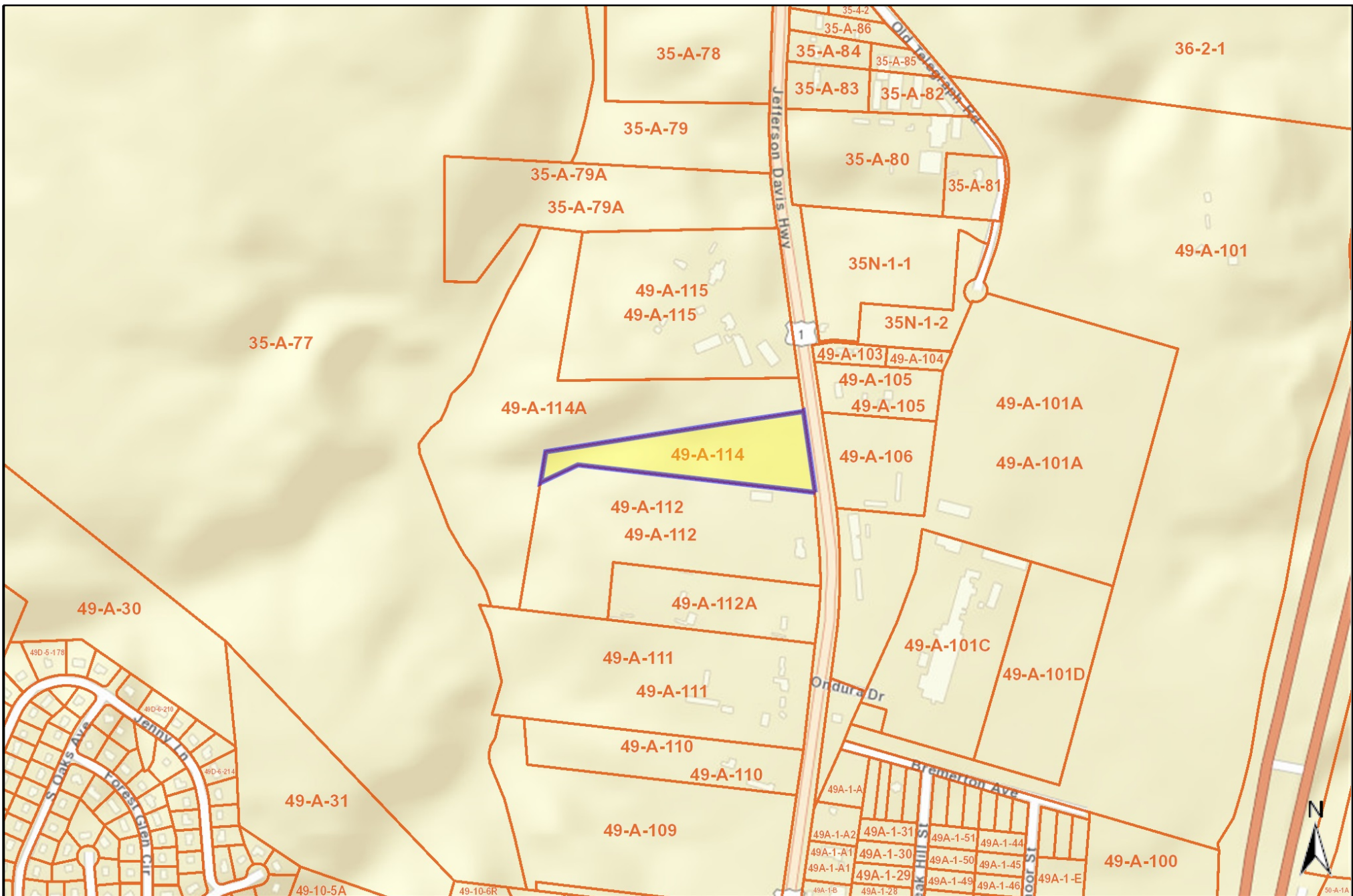
Parcel ID Number (PIN):	Property Address:	Owner:	Billing Address:
49-A-114	9012 Jefferson Davis HWY Fredericksburg, VA	Palmers Creek LLC No Data	6308 Five Mile Centre PARK FREDERICKSBURG, VA 22407

General Information		Voting District Information	
Subdivision:	-	Voting:	Lee Hill
Legal Description 1:	Martin Rt 1	Precinct:	PARKSIDE
Legal Description 2:	No Data	State House:	54
Legal Land Area:	5.97	State Senate:	17
		Congressional:	07
		Polling Place:	PARKSIDE ELEMENTARY SCHOOL
		Polling Address:	5620 SMITH STATION ROAD
		<p>This information listed above is based upon the location of the selected parcel in relation to the voting districts and is provided for general information purposes only. Since voting districts generally do not follow neatly along property lines, you can verify your voting location by using the map. Any specific questions about where you vote should be directed to the Spotsylvania County Voter Registrar's Office at (540) 507-7380.</p>	

Census		School Information	
Magisterial:	COURTLAND DISTRICT	Elementary School:	Parkside Elementary
Census Block:	2020,2022,2023,2033	Middle School:	Spotsylvania Middle
Census Tract:	203.06	High School:	Massaponax High
TAZ:	3492	<p>School information is based upon the location of the selected parcel in relation to the school districts and is provided for general information purposes only. Please verify with the Spotsylvania County School Administration Office's Bus Stop Information Website.</p>	
First Due :	4		

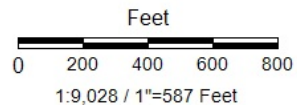
Land Development		Environmental Constraints	
Zoning:	C-3	Resource Protection Area (RPA):	N
AgForestral District:	N	FEMA 100 Year Flood Plain:	N
Airport Protection Overlay District:	N	Watershed:	E20
Historic Overlay District:	N	SubWatershed:	RA47
Highway Corridor Overlay District:	Y	<p>This information found here is provided for general reference purposes only and does not constitute an actual flood plain or RPA determination. This information is based upon the location of the selected parcels in relation to the FEMA 100 year Flood Plain or the Spotsylvania County's Resources Protection Area (RPA).Please contact a licensed professional engineer or surveyor for determination of how your property is affected by the Flood Plain or RPA.</p>	
Reservoir Protection Overlay District:	N		
River Protection Overlay District:	N		
<p>Information found here is provided for general reference purposes and does not constitute a written zoning determination. Please contact Zoning Office at (540)507-7222 for official zoning determinations.</p>			

Assessment(2018)		<p>Assessment Information is provided for general information purpose only. Please verify with Spotsylvania County Commissioner of Revenue Assessments Office <a href="http://www.spotsylvania.va.us/cor/realestate/assessmentsearch">http://www.spotsylvania.va.us/cor/realestate/assessmentsearch</a></p>
Building Assessment:	\$	
Land Assessment:	\$546,100	
Year Built:	0	
Sq Footage:	No Data	
Transfer Date:	03/30/2006	
Instrument Number:	200600010842	
Book Number:	No Data	
Page:	No Data	



**Title: Parcel View**

**Date: 3/12/2019**



*DISCLAIMER: The geographic data you are about to access are electronic public records as defined by the Code of Virginia, 1950, Section 2.2-3704. This information is made available as a public service. Spotsylvania County assumes no responsibility for any action or actions taken by users of this information. Spotsylvania County shall not be liable to the user or to any other person for the use or misuse of this data. This information is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. If you believe any data provided is inaccurate, please inform the GIS Division by e-mail at [gis@spotsylvania.va.us](mailto:gis@spotsylvania.va.us)*



F

Architect's Certification  
and Third-Party RESNET  
Rater Certification  
(MANDATORY)



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## INSTRUCTIONS FOR THE COMPLETION OF APPENDIX F ARCHITECT'S CERTIFICATION

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(This form must be included in the Application – Tab F)

**NOTE:** If the development includes any combination of **New Construction, Rehabilitation** or Adaptive Reuse, then separate Architect Certifications must be provided for each construction type.

The proper completion of this certification is critical to calculate the average unit square feet and net rentable square feet of each unit type, to document amenity items for which will be awarded, and to calculate certain elements of the efficient use of resources points.

If this certification is not completed correctly there may be loss of points or disqualification of the application to compete for tax credits. If this development receives an allocation of tax credits and items are not provided as indicated on this certification then VHDA may, at its sole option, require the payment by the Owner of an amount up to 10% of the Total Development Cost (as set forth in the Application) of the development as liquidated damages for such violation or the total loss of credits may result. Therefore, it is imperative that this certification reflect the true and accurate intent of what will be provided in return for an allocation of tax credits.

Each section of this certification contains instructions on how the information should be provided. For Unit Size Calculations, the Average Unit Square Feet and Net Rentable Square Feet should be listed to two (2) decimal places. The number of units indicated should be only the units for which rent will be collected. For Average Unit Square Feet calculations, the Total Square Feet should equal the Average Unit Square Feet multiplied by the Number of Units/Type. The total at the bottom of the Total Square Feet column should equal item (D) on the same page of the certification, or be within 1 digit due to rounding.

J

Accessibility certifications on page 6 are for tax credit point categories only and are not to be confused with minimum code requirements.

JCS





# Architect's Certification

Name of Development: Palmers Creek

Address of Development: 8934 Jefferson Davis Highway, Fredericksburg, VA 22407

Name of Owner: BWF Palmers Creek, LLC

The architect signing this document is certifying that all unit and site amenities indicated in this certification are incorporated into the development plans and specifications, and that all products necessary to fulfill these representations are available for these purposes. The architect signing this document also certifies their understanding that both the excel application and the information in the architect certification must be the same and discrepancies between the excel application and architect's certification can result in penalties or even disqualification.

The individual who certifies this information must initial the pages where indicated, provide the personal information requested and sign on the last page. This certification should not be mailed separately to VHDA but returned to the developer for inclusion in the tax credit application.

**(Acknowledge and include this instruction sheet as part of the certification)**

Acknowledged:

Printed Name:

Jeff Price

All developments seeking Virginia Low Income Housing Tax Credits are required to meet one of the following as certified by a RESNET Rater:

- New Construction - EnergyStar Certification  
The development's design meets the criteria for the EnergyStar certification.
- Rehabilitation -30% performance increase over existing, based on HERS Index  
Or Must evidence a HERS Index of 80 or better
- Adaptive Reuse - Must evidence a HERS Index of 95 or better.

Plans and Specifications: Required documentation for all properties (new construction, rehabilitation and adaptive reuse)

- 1 A location map with property(ies) clearly defined.
- 2 A site plan showing overall dimensions of main building(s), major site elements (e.g., parking lots and location of existing utilities, and water, sewer, electric, gas in the streets adjacent to the site). Contour lines and elevations are not required. For combination 4% and 9% properties, site plan must show all elements of both properties labeled so that the elements are distinguishable as to 4% and 9%.
- 3 Sketch plans of main building(s) reflecting overall dimensions of:
  - a. Typical floor plan(s) showing apartment types and placement
  - b. Ground floor plan(s) showing common areas;
  - c. Sketch floor plan(s) of typical dwelling unit(s);

A Unit by Unit write up is required for all Rehabilitation properties

**This certification includes two (2) separate calculations of square footage:**

1. **Average Gross Unit Square Feet:** Measurements Include A Prorata Share of Heated Residential Common Area
2. **Net Rentable Square Feet:** Measurements *Do Not* Include A Prorata Share of Any Common Area and Reflect All Floor Plans of Each Unit Type (1-BR, 2-BR, etc.) measured from the interior face of the unit perimeter walls

**1. Average Gross Unit Square Feet:**

(These measurements impact the scoring of tax credit applications)

For purposes of determining the total residential heated square feet (D), the building(s) were measured from the outside face of exterior walls and the centerline of any party walls. All unheated spaces (B) and nonresidential, (income producing commercial spaces) (C) were subtracted from this measurement. Community rooms, laundry rooms, property management offices and apartments, heated maintenance facilities, and other common space designed to serve residential tenants were not deducted. Based on this procedure, I certify the following calculations in determining the usable heated square feet for the above referenced development:

256,826.00	(A) Total gross floor area in (sq. ft.) for the entire development
39,760.00	- (B) Unheated floor area (breezeways, balconies, storage)
0.00	- (C) Nonresidential, (commercial income producing) area
217,066.00	= (D) Total residential heated area (sq. ft.) for the development

**INSTRUCTIONS FOR AVERAGE UNIT SQUARE FEET CALCULATIONS:**

Provide the average unit size for each bedroom type, (1 bedroom elderly, 2 bedroom garden, 3 bedroom townhouse, etc.) by adding the total square feet of all the same bedroom types (2 bedroom garden with 1 bath and 2 bedroom garden with 2 baths) and adding the prorated share of heated common residential space and divide by the total number of the same bedroom types (2 bedroom garden). Do not alter any items below.

Unit Types	Average Unit Sq. Ft.*	x	Number of Units/Type	=	Total Square Feet
Supportive Housing	0.00		0		0.00
1 Story/EFF-Elderly	0.00		0		0.00
1 Story/1 BR-Elderly	0.00		0		0.00
1 Story/2 BR-Elderly	0.00		0		0.00
Efficiency Elderly	0.00		0		0.00
1 Bedroom Elderly	0.00		0		0.00
2 Bedrooms Elderly	0.00		0		0.00
Efficiency Garden	0.00		0		0.00
1 Bedroom Garden	739.26		30		22,177.85
2 Bedrooms Garden	1,030.78		109		112,354.48
3 Bedrooms Garden	1,353.01		61		82,533.67
4 Bedrooms Garden	0.00		0		0.00
2+ Story 2 BR Townhouse	0.00		0		0.00
2+ Story 3 BR Townhouse	0.00		0		0.00
2+ Story 4 BR Townhouse	0.00		0		0.00
Total			200	Total	217,066.00 **

\* Including pro rata share of heated, residential common area. This information should match Structure tab of the excel application



**2. Net Rentable Square Feet \***

For purposes of calculating Net Rentable Square Feet, the units were measured from the face of each unit perimeter wall. The values below therefore indicate the actual square footage of each unit floor plan. (For example, there may be 2 distinct 1-bedroom floor plans, 3 distinct 2-bedroom floor plans, etc. The purpose of this section of the Architect Certification is to document and certify the floor space attributable to residential rental units in the development.)

Percentage of Net Rentable Square Feet Deemed To Be **New Rental Space** 100.00%

	Unit Type	Floor Plan Square Feet	Number of Units This Floor Plan	Total
Mix 1	1 BR - 1 Bath	661	2	1322
Mix 2	1 BR - 1 Bath	713	11	7843
Mix 3	1 BR - 1 Bath	719	1	719
Mix 4	1 BR - 1 Bath	686	16	10976
Mix 5	2 BR - 2 Bath	881	81	71361
Mix 6	2 BR - 2 Bath	1042	18	18756
Mix 7	2 BR - 2 Bath	1040	2	2080
Mix 8	2 BR - 1.5 Bath	1076	8	8608
Mix 9	3 BR - 2 Bath	1223	28	34244
Mix 10	3 BR - 2 Bath	1221	1	1221
Mix 11	3 BR - 2 Bath	1256	32	40192
Mix 12				0
Mix 13				0
Mix 14				0
Mix 15				0
Mix 16				0
Mix 17				0
Mix 18				0
Mix 19				0
Mix 20				0
Mix 21				0
Mix 22				0
Mix 23				0
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Mix 35				0
Mix 36				0
Mix 37				0
Mix 38				0
Mix 39				0
Mix 40				0
Mix 41				0
Mix 42				0
Mix 43				0
Mix 44				0
Mix 45				0
Mix 46				0
Mix 47				0
Mix 48				0
Mix 49				0
Mix 50				0
<b>Totals</b>			<b>200</b>	<b>197322</b>

\*This information should match Unit Details page of the excel application

DEV Name: Palmers Creek

**Development Amenities:**

I certify that the development's plans and specifications and proposed budget incorporate all items from VHDA's most current Minimum Design and Construction Requirements and the Unit by Unit write up. In the event the plans and specifications do not include VHDA Minimum Design and Construction Requirements and any immediate needs and recommendations from the Physical Needs Assessment, then those requirements still must be met, even though the application is accepted for credits. Please note that this may cause the Application to be ineligible for credits. The Requirements apply to any new, adaptive reuse or rehabilitated development (including those serving elderly and/or physically disabled households).

The Minimum Design & Construction Requirements may be found on VHDA's website at.....

[www.VHDA.com](http://www.VHDA.com)

For any development upon completion of construction/rehabilitation: (non-mandatory amenities)

(Enter TRUE in each box where appropriate)

- TRUE a. The development will have a community/meeting room with a minimum of 749 square feet.
- 16% b.i,ii Percentage of brick or other similar low-maintenance material approved by the Authority covering the exterior walls (excluding triangular gable end area, doors, windows, kneewalls, columns, retaining walls, stairwells and any features that are not a part of the façade)  
Community buildings are to be included in percentage calculations.
- TRUE c. Water expense will be sub-metered (tenant will pay monthly or bi-monthly bill)
- FALSE d. Each bathroom consists only of Water Sense labeled toilets, faucets and showerheads
- TRUE e. Provide necessary infrastructure in all units for high-speed internet/broadband service.
- TRUE f. Free Wi-Fi access will be provided for community room for resident only usage.
- FALSE g. Each Unit is provided free individual high-speed Internet access
- OR
- FALSE h. Each Unit is provided free individual Wi-Fi access
- FALSE i. Bath fan wired to primary light with delayed timer, or, continuous exhaust by ERV/DOAS OR  
Bath Fan with humidistat
- FALSE j. Fire Suppression - Cooking surfaces are equipped with fire suppression features
- OR
- FALSE k. Fire Prevention - all Ranges equipped with temperature limiting controls
- FALSE l. Rehab only- Each apartment has dedicated space, drain and electrical hookups  
to accept a permanently installed dehumidification system OR
- FALSE m. All development types- Each Unit is equipped with a permanent dehumidification system
- FALSE n. All interior doors within units are solid core
- FALSE o. At minimum one USB charging port in each Kitchen, Living room and all bedrooms
- FALSE p. All Kitchen light fixtures are LED and meet MDCR lighting guidelines
- FALSE q. Shelf or ledge outside each primary apartment entry door located in an interior hallway
- FALSE r. New Construction only- Each unit to have balcony or patios minimum depth 5' clear from face of building.  
Minimum 30 square feet.

DEV Name: Palmers Creek



For all developments exclusively serving elderly tenants upon completion of construction/rehabilitation:  
(optional point items)

- FALSE a. All cooking ranges will have front controls
- FALSE b. All full bathrooms will have an independent or supplemental heat source
- FALSE c. All entrance doors have two eye viewers, one at 42" and the other at standard height

For all rehabilitation and adaptive reuse developments, upon completion of construction/rehabilitation:  
(optional point items)

- FALSE The structure is listed individually in the National Register of Historic Places or is located in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits.

**Building Structure:**

Number of Stories

- Low-Rise (1-5 stories with any structural elements being wood frame construction)
- Mid-Rise (5-7 stories with no structural elements being wood frame construction)
- High-Rise (8 or more stories with no structural elements being wood frame construction)

**Accessibility:**

I certify that the development plans and specifications meet all requirements of the federal Americans with Disabilities Act and Fair Housing Act (if applicable).

I certify that the development plans and specifications meet all requirements of HUD regulations interpreting the accessibility requirements of section 504 of the Rehabilitation Act. Complying units must be "permanently accessible," rather than to "adaptable" standards. Please reference Uniform Federal Accessibility Standards(UFAS) for more particular information.

Check one or none of the following point categories, as appropriate:

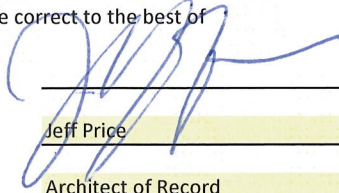
- Any development in which (i) the greater of 5 units or 10% of the total # of units will be assisted by HUD project-based vouchers or another form of documented and binding federal, state or locality project-based rent subsidies in order to ensure occupancy by extremely low-income persons; and (ii) the greater of 5 or 10% of the units will conform to HUD regulations interpreting accessibility requirements of Section 504 of the Rehabilitation Act.  
(All of the units described in (ii) above must include roll-in showers (must contain permanent grab bars and fixed seats), roll under sinks and front controls for ranges unless agreed to by the Authority prior to the applicant's submission of its application.)  
**60 pts.**
- Any development in which the greater of 5 units or 10% of the total # of units (i) have rents within HUD's Housing Choice Voucher payment standard; (ii) conform to HUD regulations interpreting accessibility requirements of Section 504 of the Rehabilitation Act  
**30 pts.**
- Any development in which **five percent (5%)** of the total # of units (i) conform to HUD regulations interpreting accessibility requirements of Section 504 of the Rehabilitation Act  
**15 pts.**

For any accessibility option elected above, all common space must also conform to accessibility requirements of HUD Section 504 regulations.

DEV Name: Palmers Creek

Architect's Certification

As architect of record for the above referenced development, the above certifications are correct to the best of my knowledge.

Signed:   
Printed Name: Jeff Price  
Title: Architect of Record  
Virginia Registration #: 014468  
Phone: 816-792-5991  
Date: 08/26/2019

**NOTE TO ARCHITECT: If representaions in plans and specifications and/or any information certified in this certification is misrepresented then the architect may be penalized. Any change in this form may result in disqualification or a reduction of points under the scoring system. If you have any questions, please call JD Bondurant at VHDA (804) 343-5725.**

**Return this certification to the developer for inclusion in the tax credit application package.**

DEV Name: Palmers Creek



**Appendix F  
VHDA's Universal Design Certification**

**FALSE** Units in the development will meet VHDA's **Universal Design Guidelines**.  
Before issuance of IRS Form 8609, applicant will provide documentation to VHDA as evidence that such units meet VHDA's Universal Design guidelines.

The number of rental units that will meet these standards: 0

The total number of rental units in this development: 200

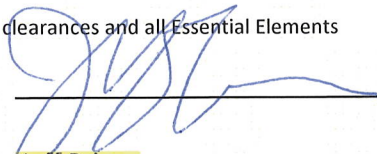
**NOTE:** For Elderly Developments, 100% of the units in the development must meet the Universal Design standards in order to qualify for points.

For Family Developments, points are awarded based on a percentage of the number of units meeting the Universal Design standards.

For the tax credit applicant to qualify for points associated with Universal Design, the architect of record must be on VHDA's list of Universal Design certified architects. VHDA Universal Design Certifications are only valid for 2019 applications if certification date is after January 1, 2014

All tax credit applications which include amenity points for providing VHDA Universally Designed dwelling units must include plans that clearly identify the following items in the format found on vhda.com or no points will be awarded:

- Overall building plans identifying the location of Universal Design dwelling units, and the means of vertical transportation (if applicable), along the accessible route (Minimum scale 1/8"=1'-0"). Include a legend and Universal Design General Notes section. Anything other than a fully handicap accessible elevator must have been presented to and approved by VHDA for this project at least two weeks prior to submission of reservation application.
- Site plan and building plans identifying accessible pedestrian routes from all Universal Design units to accessible parking, leasing office, community room, laundry facility, mailboxes, garbage collection areas and public transportation pick up areas. Architect must identify running slope and cross slope of route, and consider any obstructions. Include required number of accessible parking spaces, a legend for the accessible route, and a Universal Design general notes section.
- Enlarged Universal Design unit plans (Minimum scale 1/4"=1'-0") identifying clearances and all Essential Elements

Signed:   
\_\_\_\_\_  
Printed Name: Jeff Price

**Architect of Record  
(same individual as on page 7)**

Date: 8/26/19

DEV Name: Palmers Creek



Final RESNET Rater Certification of Development

I certify that the development incorporates all items for the required baseline energy performance as indicated in Virginia's Qualified Allocation Plan (QAP). I certify that the energy data entered into any system was not entered in by another party. I certify the development has obtained the measurement as indicated below.

In addition provide HERS rating documentation as specified in the manual

X New Construction - EnergyStar Certification
The development's design meets the criteria for the EnergyStar certification.
HERS index 67

Rehabilitation -30% performance increase over existing, based on HERS Index
Or Must evidence a HERS Index of 80 or better
Beginning HERS index
Final HERS Index

Adaptive Reuse - Must evidence a HERS Index of 95 or better.
HERS index

Additional Optional Certifications

I certify the development has met all the requirements of the certification chosen below and all data was not entered or submitted by another party

FALSE Earthcraft Certification
The development has obtained the EarthCraft Certification of level

FALSE LEED Certification
The development has obtained the U.S. Green Building Council LEED certification.
level

FALSE National Green Building Standard (NGBS) -
The development has obtained the NGBS certification.
level

FALSE Enterprise Green Communities
The development has been certified as an Enterprise Green Community.

Date: 8/27/19

Signed: [Signature]

My notary seal is affixed below:

Printed Name: Kevin Robicheau
RESNET Rater

Signature [Signature]
RESNET Rater



The foregoing instrument was acknowledged before me this 27th day of August, 2019 by Kevin Robicheau (Name)

Notary Public: Sarah Kennon (print)

Notary Public: [Signature] (signature) My commission expires: 10/31/2019 My notary registration number is: 7655354



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: YdxADa0v

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$425

\*Relative to an average U.S. home

**Home:**  
Jefferson Davis Highway

Spotsylvania, VA 22407

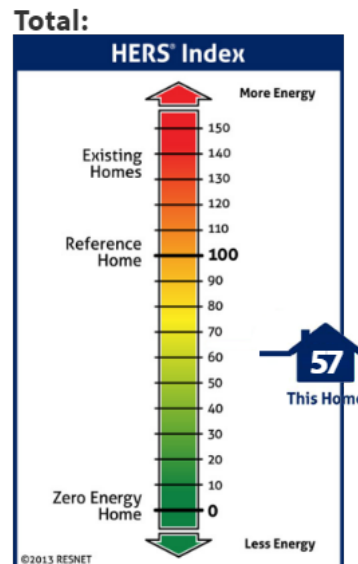
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.1	\$74
Cooling	1.3	\$31
Hot Water	5.2	\$123
Lights/Appliances	9.6	\$225
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>19.3</b>	<b>\$512</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: A1 bottom  
Community: Palmers Creek  
Conditioned Floor Area: 744 sq. ft.  
Number of Bedrooms: 1  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 37.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Adiabatic, R-19  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: kLZGM7rd

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$417

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

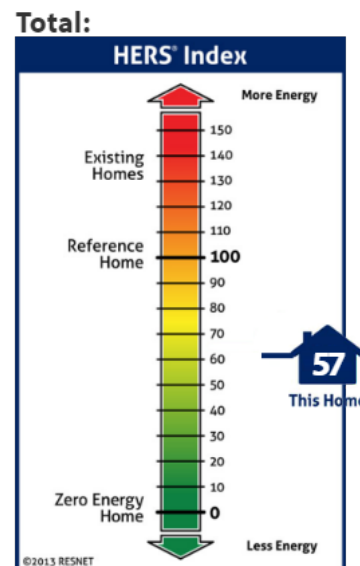
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	2.2	\$51
Cooling	1.4	\$33
Hot Water	5.2	\$122
Lights/Appliances	9.7	\$227
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>18.5</b>	<b>\$494</b>

### This home meets or exceeds the criteria of the following:

- Energy Star v3
- Energy Star v3.1
- 2009 International Energy Conservation Code
- 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	A1S bottom
Community:	Palmers Creek
Conditioned Floor Area:	769 sq. ft.
Number of Bedrooms:	1
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	38.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: mvoqDzNL

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$405

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

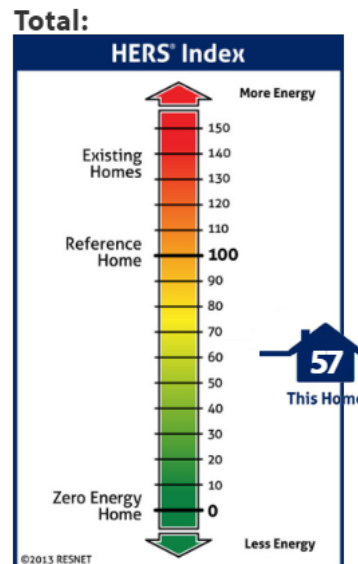
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	2.0	\$46
Cooling	1.4	\$33
Hot Water	5.2	\$122
Lights/Appliances	9.7	\$227
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>18.3</b>	<b>\$489</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	A1S mid
Community:	Palmers Creek
Conditioned Floor Area:	769 sq. ft.
Number of Bedrooms:	1
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	38.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: Zdm5VWRd

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$418

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

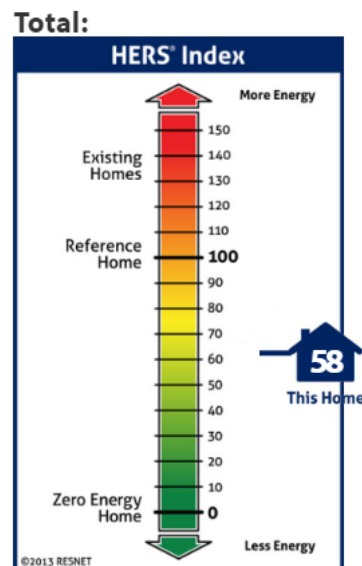
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	2.9	\$69
Cooling	1.7	\$40
Hot Water	5.2	\$122
Lights/Appliances	9.7	\$227
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>19.5</b>	<b>\$518</b>

### This home meets or exceeds the criteria of the following:

- Energy Star v3
- Energy Star v3.1
- 2009 International Energy Conservation Code
- 2006 International Energy Conservation Code



### Home Feature Summary:

- Home Type: Apartment, inside unit
- Model: A1S top
- Community: Palmers Creek
- Conditioned Floor Area: 769 sq. ft.
- Number of Bedrooms: 1
- Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF
- Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER
- Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor
- House Tightness: 5 ACH50
- Ventilation: 38.0 CFM • 25.5 Watts
- Duct Leakage to Outside: 4 CFM25\_PER\_100SF
- Above Grade Walls: R-19
- Ceiling: Attic, R-49
- Window Type: U-Value: 0.32, SHGC: 0.4
- Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: q2R7oDML

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$429

\*Relative to an average U.S. home

**Home:**  
Jefferson Davis Highway

Spotsylvania, VA 22407

**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	2.8	\$66
Cooling	1.4	\$32
Hot Water	5.2	\$123
Lights/Appliances	9.6	\$225
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>19.0</b>	<b>\$506</b>

### This home meets or exceeds the criteria of the following:

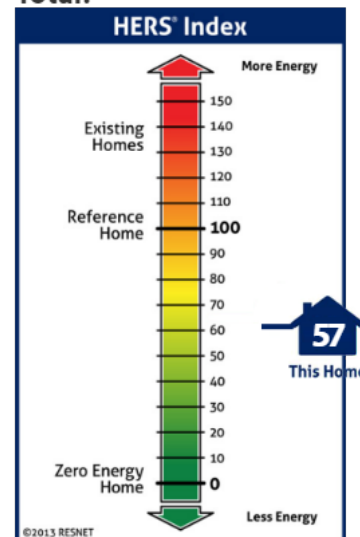
Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: A2 bottom  
Community: Palmers Creek  
Conditioned Floor Area: 746 sq. ft.  
Number of Bedrooms: 1  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 38.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Adiabatic, R-19  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: x25WDRJd

### HERS® Index Score:

# 56

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$414

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

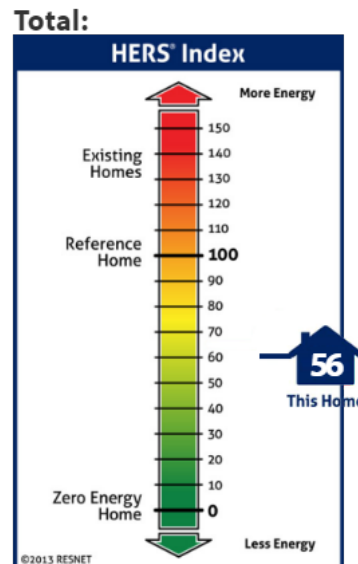
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	2.2	\$52
Cooling	1.4	\$32
Hot Water	5.2	\$123
Lights/Appliances	9.6	\$225
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>18.4</b>	<b>\$492</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	A2 mid
Community:	Palmers Creek
Conditioned Floor Area:	746 sq. ft.
Number of Bedrooms:	1
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	38.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: gdq1Dend

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$427

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

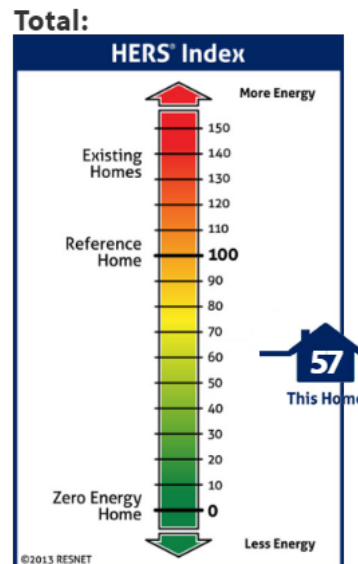
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.1	\$73
Cooling	1.6	\$38
Hot Water	5.2	\$123
Lights/Appliances	9.6	\$225
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>19.6</b>	<b>\$519</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
 Energy Star v3.1  
 2009 International Energy Conservation Code  
 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
 Model: A2 top  
 Community: Palmers Creek  
 Conditioned Floor Area: 746 sq. ft.  
 Number of Bedrooms: 1  
 Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
 Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
 Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
 House Tightness: 5 ACH50  
 Ventilation: 37.0 CFM • 25.5 Watts  
 Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
 Above Grade Walls: R-19  
 Ceiling: Attic, R-49  
 Window Type: U-Value: 0.32, SHGC: 0.4  
 Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: bL7bweK2

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$516

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

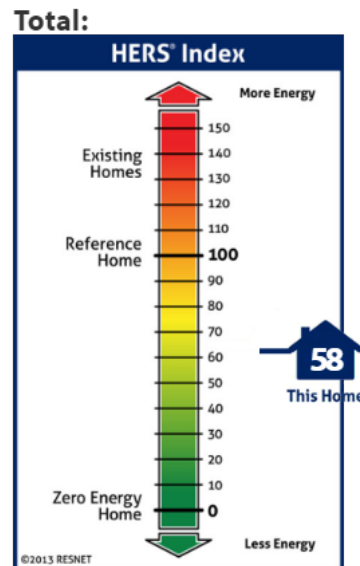
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.9	\$91
Cooling	2.0	\$46
Hot Water	7.0	\$164
Lights/Appliances	11.2	\$262
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>24.1</b>	<b>\$624</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	B1 bottom
Community:	Palmers Creek
Conditioned Floor Area:	985 sq. ft.
Number of Bedrooms:	2
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	52.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: Kvp7D57d

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$493

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

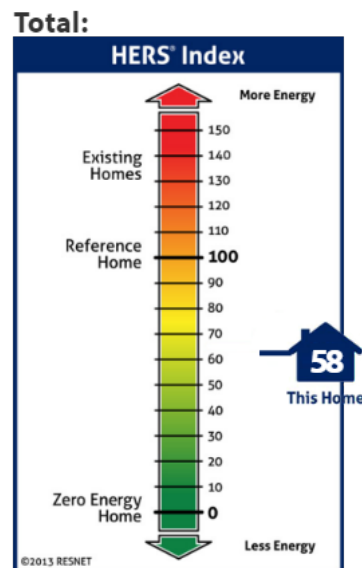
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.4	\$79
Cooling	2.0	\$46
Hot Water	7.0	\$164
Lights/Appliances	11.2	\$262
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>23.5</b>	<b>\$612</b>

### This home meets or exceeds the criteria of the following:

- Energy Star v3
- Energy Star v3.1
- 2009 International Energy Conservation Code
- 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	B1 mid
Community:	Palmers Creek
Conditioned Floor Area:	985 sq. ft.
Number of Bedrooms:	2
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	52.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: BdNRNzgd

### HERS® Index Score:

# 60

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$503

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	4.8	\$113
Cooling	2.4	\$56
Hot Water	7.0	\$164
Lights/Appliances	11.2	\$262
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>25.4</b>	<b>\$655</b>

### This home meets or exceeds the criteria of the following:

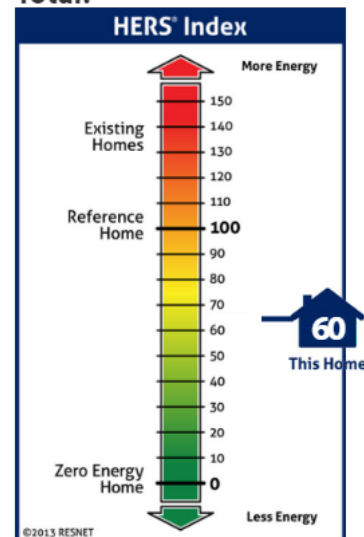
Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: B1 top  
Community: Palmers Creek  
Conditioned Floor Area: 985 sq. ft.  
Number of Bedrooms: 2  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 52.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Attic, R-49  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: ILX36Da2

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$539

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

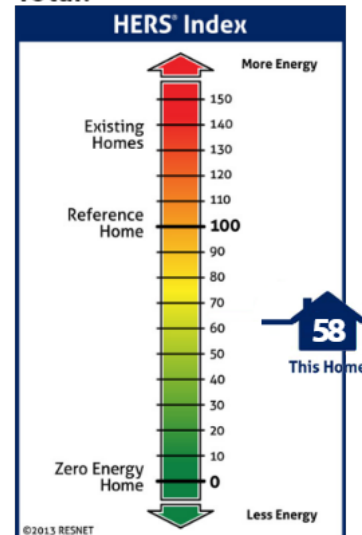
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.6	\$83
Cooling	2.0	\$48
Hot Water	7.0	\$164
Lights/Appliances	11.7	\$274
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>24.3</b>	<b>\$629</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: B2S bottom  
Community: Palmers Creek  
Conditioned Floor Area: 1,115 sq. ft.  
Number of Bedrooms: 2  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 56.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Adiabatic, R-19  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: YdxADZbv

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$520

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

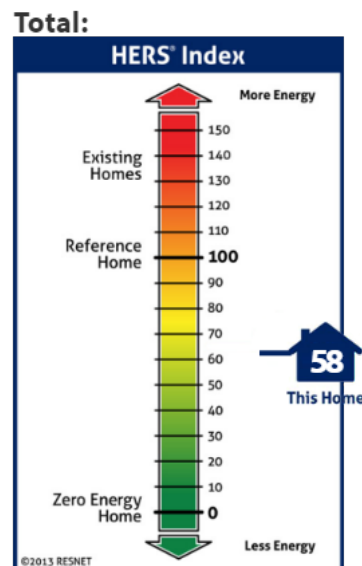
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	3.2	\$74
Cooling	2.0	\$48
Hot Water	7.0	\$164
Lights/Appliances	11.7	\$274
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>23.9</b>	<b>\$620</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
 Energy Star v3.1  
 2009 International Energy Conservation Code  
 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
 Model: B2S mid  
 Community: Palmers Creek  
 Conditioned Floor Area: 1,115 sq. ft.  
 Number of Bedrooms: 2  
 Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
 Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
 Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
 House Tightness: 5 ACH50  
 Ventilation: 56.0 CFM • 25.5 Watts  
 Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
 Above Grade Walls: R-19  
 Ceiling: Adiabatic, R-19  
 Window Type: U-Value: 0.32, SHGC: 0.4  
 Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: mvoqDROL

### HERS® Index Score:

# 59

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$533

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

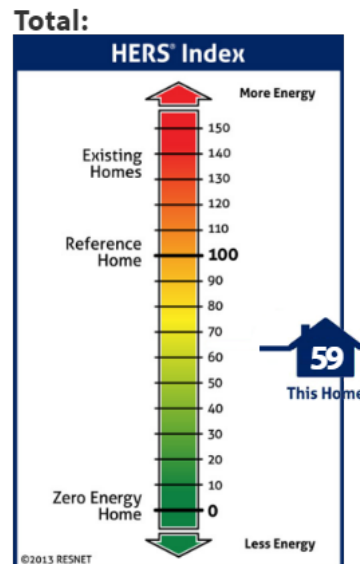
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	4.8	\$112
Cooling	2.5	\$59
Hot Water	7.0	\$164
Lights/Appliances	11.7	\$274
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>25.9</b>	<b>\$668</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: B25 top  
Community: Palmers Creek  
Conditioned Floor Area: 1,115 sq. ft.  
Number of Bedrooms: 2  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 56.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Attic, R-49  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: AvjaVDkd

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$574

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

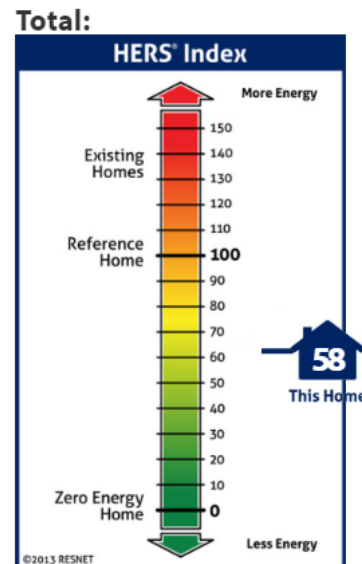
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	5.1	\$120
Cooling	2.1	\$49
Hot Water	7.0	\$164
Lights/Appliances	11.9	\$280
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>26.1</b>	<b>\$673</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: B3 bottom  
Community: Palmers Creek  
Conditioned Floor Area: 1,178 sq. ft.  
Number of Bedrooms: 2  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 58.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Adiabatic, R-19  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
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# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: VdG1mMO2

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$550

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

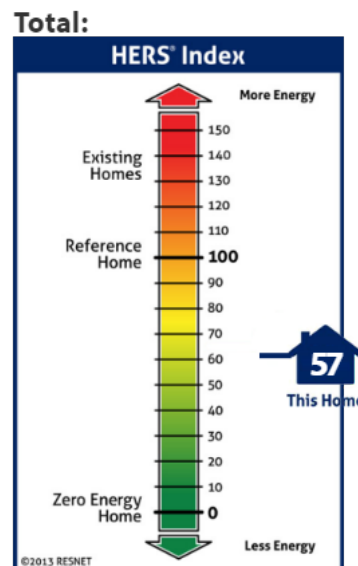
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	4.1	\$96
Cooling	2.1	\$49
Hot Water	7.0	\$164
Lights/Appliances	11.9	\$280
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>25.1</b>	<b>\$648</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
 Energy Star v3.1  
 2009 International Energy Conservation Code  
 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
 Model: B3 mid  
 Community: Palmers Creek  
 Conditioned Floor Area: 1,178 sq. ft.  
 Number of Bedrooms: 2  
 Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
 Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
 Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
 House Tightness: 5 ACH50  
 Ventilation: 58.0 CFM • 25.5 Watts  
 Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
 Above Grade Walls: R-19  
 Ceiling: Adiabatic, R-19  
 Window Type: U-Value: 0.32, SHGC: 0.4  
 Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
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# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: P2IAVDzL

### HERS® Index Score:

# 59

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$560

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
 Spotsylvania, VA 22407

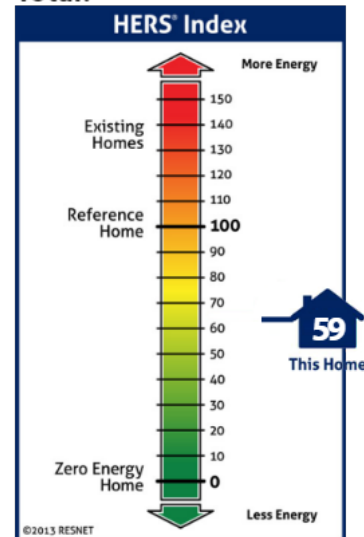
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	5.9	\$138
Cooling	2.6	\$61
Hot Water	7.0	\$164
Lights/Appliances	11.9	\$280
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>27.4</b>	<b>\$703</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
 Energy Star v3.1  
 2009 International Energy Conservation Code  
 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
 Model: B3 top  
 Community: Palmers Creek  
 Conditioned Floor Area: 1,178 sq. ft.  
 Number of Bedrooms: 2  
 Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
 Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
 Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
 House Tightness: 5 ACH50  
 Ventilation: 58.0 CFM • 25.5 Watts  
 Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
 Above Grade Walls: R-19  
 Ceiling: Attic, R-49  
 Window Type: U-Value: 0.32, SHGC: 0.4  
 Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
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# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: 123GY1P2

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$634

\*Relative to an average U.S. home

**Home:**  
 Jefferson Davis Highway

Spotsylvania, VA 22407

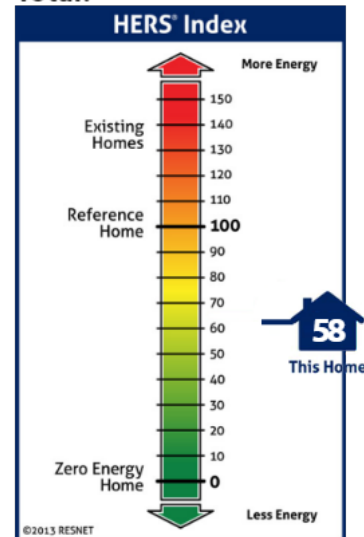
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	5.1	\$120
Cooling	2.6	\$60
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$310
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>29.5</b>	<b>\$752</b>

### This home meets or exceeds the criteria of the following:

- Energy Star v3
- Energy Star v3.1
- 2009 International Energy Conservation Code
- 2006 International Energy Conservation Code



### Home Feature Summary:

- Home Type: Apartment, inside unit
- Model: C1 bottom
- Community: Palmers Creek
- Conditioned Floor Area: 1,338 sq. ft.
- Number of Bedrooms: 3
- Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF
- Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER
- Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor
- House Tightness: 5 ACH50
- Ventilation: 70.0 CFM • 25.5 Watts
- Duct Leakage to Outside: 4 CFM25\_PER\_100SF
- Above Grade Walls: R-19
- Ceiling: Adiabatic, R-19
- Window Type: U-Value: 0.32, SHGC: 0.4
- Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: B26GO5EL

### HERS® Index Score:

# 58

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$606

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

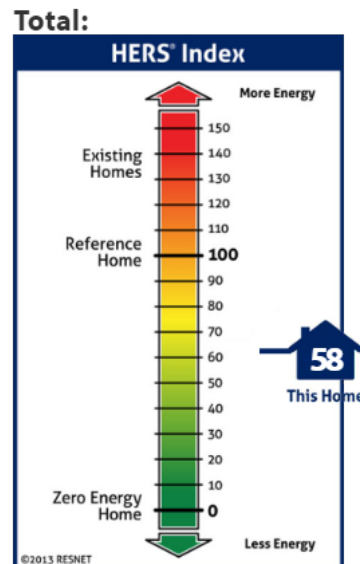
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	4.5	\$105
Cooling	2.6	\$60
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$310
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>28.9</b>	<b>\$737</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	C1 mid
Community:	Palmers Creek
Conditioned Floor Area:	1,338 sq. ft.
Number of Bedrooms:	3
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	70.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: yvPex1z2

### HERS® Index Score:

# 61

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$614

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	6.7	\$156
Cooling	3.2	\$75
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$310
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>31.7</b>	<b>\$803</b>

### This home meets or exceeds the criteria of the following:

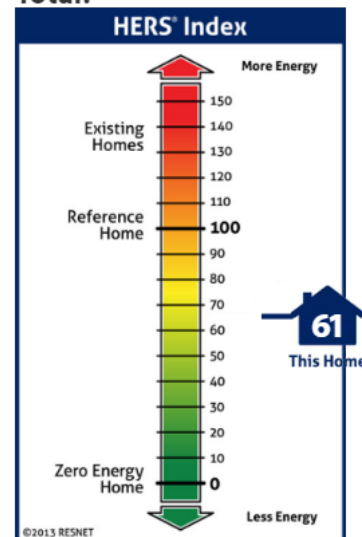
Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



### Home Feature Summary:

Home Type: Apartment, inside unit  
Model: C1 top  
Community: Palmers Creek  
Conditioned Floor Area: 1,338 sq. ft.  
Number of Bedrooms: 3  
Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
House Tightness: 5 ACH50  
Ventilation: 70.0 CFM • 25.5 Watts  
Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
Above Grade Walls: R-19  
Ceiling: Attic, R-49  
Window Type: U-Value: 0.32, SHGC: 0.4  
Foundation Walls: N/A

*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM



# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: 3LMmpAeL

### HERS® Index Score:

# 57

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$698

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
Spotsylvania, VA 22407

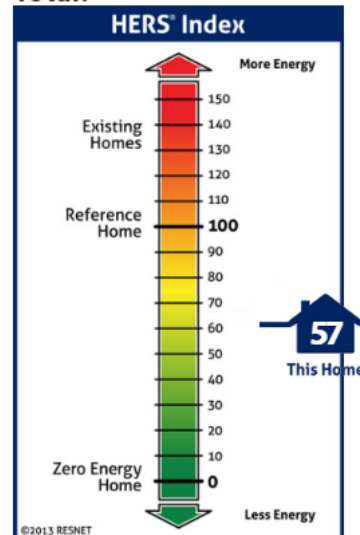
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	7.5	\$176
Cooling	2.7	\$63
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$309
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>32.0</b>	<b>\$810</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	C2 bottom
Community:	Palmers Creek
Conditioned Floor Area:	1,332 sq. ft.
Number of Bedrooms:	3
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	70.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Adiabatic, R-19
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
 Registry ID: Unregistered  
 Ekotrope ID: yL0QByBd

### HERS® Index Score:

# 56

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$656

\*Relative to an average U.S. home

### Home:

Jefferson Davis Highway  
 Spotsylvania, VA 22407

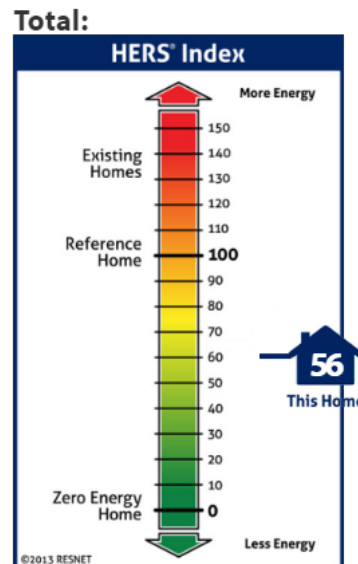
### Builder:

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	5.7	\$133
Cooling	2.7	\$64
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$309
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>30.2</b>	<b>\$769</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
 Energy Star v3.1  
 2009 International Energy Conservation Code  
 2006 International Energy Conservation Code



### Home Feature Summary:

Home Type: Apartment, inside unit  
 Model: C2 mid  
 Community: Palmers Creek  
 Conditioned Floor Area: 1,332 sq. ft.  
 Number of Bedrooms: 3  
 Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF  
 Primary Cooling System: Air Source Heat Pump • Electric • 14.5 SEER  
 Primary Water Heating: Water Heater • Electric • 0.93 Energy Factor  
 House Tightness: 5 ACH50  
 Ventilation: 70.0 CFM • 25.5 Watts  
 Duct Leakage to Outside: 4 CFM25\_PER\_100SF  
 Above Grade Walls: R-19  
 Ceiling: Adiabatic, R-19  
 Window Type: U-Value: 0.32, SHGC: 0.4  
 Foundation Walls: N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
 RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
 201 Wylderose Drive  
 804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
 241 Pine St NE  
 404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
 Digitally signed: 4/19/19 at 12:24 PM

# Home Energy Rating Certificate

## Projected Report

Rating Date:  
Registry ID: Unregistered  
Ekotrope ID: Od4GDmxL

### HERS® Index Score:

# 59

Your home's HERS score is a relative performance score. The lower the number, the more energy efficient the home. To learn more, visit [www.hersindex.com](http://www.hersindex.com)

### Annual Savings

# \$659

\*Relative to an average U.S. home

**Home:**  
Jefferson Davis Highway

Spotsylvania, VA 22407

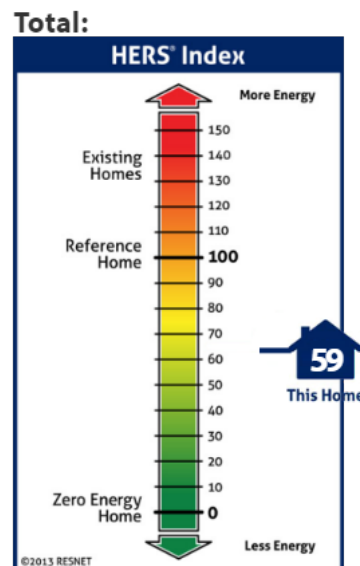
**Builder:**

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	8.0	\$188
Cooling	3.4	\$79
Hot Water	8.6	\$202
Lights/Appliances	13.2	\$309
Service Charges		\$60
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>33.2</b>	<b>\$838</b>

### This home meets or exceeds the criteria of the following:

Energy Star v3  
Energy Star v3.1  
2009 International Energy Conservation Code  
2006 International Energy Conservation Code



### Home Feature Summary:

Home Type:	Apartment, inside unit
Model:	C2 top
Community:	Palmers Creek
Conditioned Floor Area:	1,332 sq. ft.
Number of Bedrooms:	3
Primary Heating System:	Air Source Heat Pump • Electric • 8.5 HSPF
Primary Cooling System:	Air Source Heat Pump • Electric • 14.5 SEER
Primary Water Heating:	Water Heater • Electric • 0.93 Energy Factor
House Tightness:	5 ACH50
Ventilation:	70.0 CFM • 25.5 Watts
Duct Leakage to Outside:	4 CFM25_PER_100SF
Above Grade Walls:	R-19
Ceiling:	Attic, R-49
Window Type:	U-Value: 0.32, SHGC: 0.4
Foundation Walls:	N/A

### Rating Completed by:

**Energy Rater:** Kevin Robicheau  
RESNET ID: 8611030

**Rating Company:** Dominion Due Diligence Group  
201 Wylderose Drive  
804-237-1892

**Rating Provider:** Southface Energy Rated Homes  
241 Pine St NE  
404-604-3676



*Kevin Robicheau*

Kevin Robicheau, Certified Energy Rater  
Digitally signed: 4/19/19 at 12:24 PM

# WI-FI Documents

TAB F

## **RESIDENT INTERNET SERVICE - Acknowledgement of Responsibilities**

By signing below, I acknowledge that I have thoroughly reviewed the Internet Security Plan and understand the general rules of operation prior to use. I understand my responsibility as a user of the Internet and I agree to abide by the following Rules of Operation at all times.

### **Rules of Operation**

- Computer usage for the purpose of illegal activity is absolutely NOT permitted and will be reported to authorities.
- Do not access pornographic or illicit sites via the internet.
- No smoking in the community room or business center.
- No profanity will be tolerated on-line or in-person.
- No rough-housing in the community room or business center.
- Surf at your own risk.

If there is any question regarding my or my child's behavior while using the community internet (including but not limited to, rough-housing, misuse of equipment, etc.), I or my child may be suspended from using the Internet service.

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

\_\_\_\_\_

Name (Print):

Date

# Palmers Creek Apartments

## INTERNET SECURITY PLAN

The internet service at Palmers Creek Apartments will have a rotating password that is only accessible to residents. The network router will be located in a secure area to which tenants will not have access. The router will have a secure firewall to prevent data breaches.

At move-in, we will provide Tenants with the attached security and safety information and guidelines and will ask Tenants to sign an Acknowledgement of Responsibilities statement to ensure that they are educated in the internet safety and security guidelines.



# Internet Safety

Playing it safe while playing online





Hi there kids! I am Charlie Cardinal and this is Speedy the Crime Fighting Hamster. We are here to introduce you to the basics of Internet Safety and some of the villains you need to watch out for. There are some bad characters out there, so you have to protect

yourself. Your parents won't always be there to watch out for you, so stay sharp, learn all you can, and stay safe!



# Privacy & Personal Information



Privacy is being able to keep things secret or hidden from others.

Personal Information is information about you or your family such as your address, a social security number, your parent's bank account, or how much money they have.

Criminals love to get people's personal information because they can pretend to be you, or use your money to buy things.

They can also make money off of your information by selling it to others. Companies or other criminals will use your info to send you junk mail or spam emails.

Criminals learning your address can be very bad. They may break in and steal from you. Protect your safety and your belongings, by keeping your information a secret.

These bad people may even use your personal information to trick someone else in your circle of friends and family. People sometimes tell criminals things that they shouldn't if they think that they are communicating with someone they know.



Think before you click



Do you know who sent that email?



# Passwords

One of the most important things you need to learn is how to create strong passwords. A password is a code you type in to let the computer know it is really you.

Having an easy to guess password could allow someone to snoop around in your private information.

The way to make your password strong is to never use your name or your birthday. Use something hard to guess, but easy for you to remember. Make your password at least 8 characters long, and mixing numbers, symbols, and upper and lower case letters makes the password strong just like Speedy. Avoid using the same password over and over. That way if they do figure out your password, they only gain access to one account. And never leave your passwords written down where someone can find it.



A great tool online that creates kid friendly passwords is the website, [www.dinopass.com](http://www.dinopass.com)

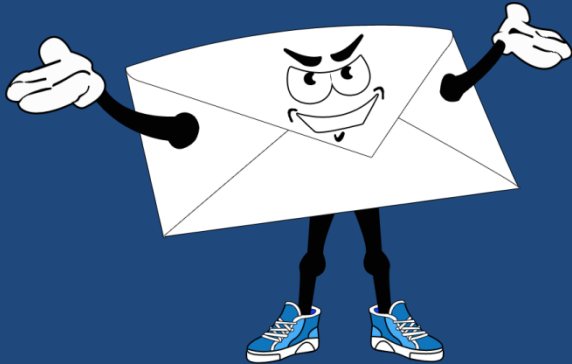
# Spam



Spam is basically email that you receive from different companies or strangers that you did not sign up for. Most times it isn't from real companies and usually the sender is up to no good.

Spam emails can sometimes be a phishing scam. Phishing emails are emails that look like it is from some trusted source. A place like your bank, the IRS where taxes are collected, or some other business you shop with often. They make their email look like it is the real thing with logos, and they put links in the email baiting you to click them. Once you click the link, you could be launching a program that can damage your computer in some way or collect your personal information.

Spam emails can also use winning a sweepstakes or some other type prize to trick you into trusting the email source. After they hook you in, they inform you that to collect your prize, you must give them your credit card number.



How do you know it is spam?

Spam emails typically have a bunch of spelling and grammar errors or a mention of someone you don't know in the subject line. Don't Open It! Delete those emails right away.



# Malware



Malware is a program written with the intent to harm your computer in some way.

Programs such as this, may be waiting for you to do something(a trigger), so that it can run. This could be the clicking of the link or opening an email attachment.

When searching for free downloads online, be very careful. There are a lot of sites out there trying to trick you. They will pay to make their site get returned at the top of the list of search results. Then when you access the page, they use blinking buttons to trick you to click. The result of clicking usually ends up being your computer loaded up with malware.

Once your machine is infected, it can change browser settings, create unusual popup ads on your computer and then pass the malware on to someone else.



Spyware is a program that gets onto your computer through a download or a virus and it gathers information about you and sends this back to its creator.

Some of the types of information spyware might send back to home base is email addresses of you or your contacts, passwords, account numbers, and credit card numbers.

Some spyware out there records how you use your computer and what you search for online.

# Adware

Adware is software that you are allowed to use by the author because of the advertisements that pop up occasionally during the game. Many of these type games you will find in the form of apps on your phone or devices.

Through the addition of advertisements, the developer gains some income that may supplement a discount to the user, sometimes making the software free.

Often after using the product with the ads, a consumer will purchase the software to get rid of the ads.

<http://www.pctools.com/security-news/what-is-adware-and-spyware/>





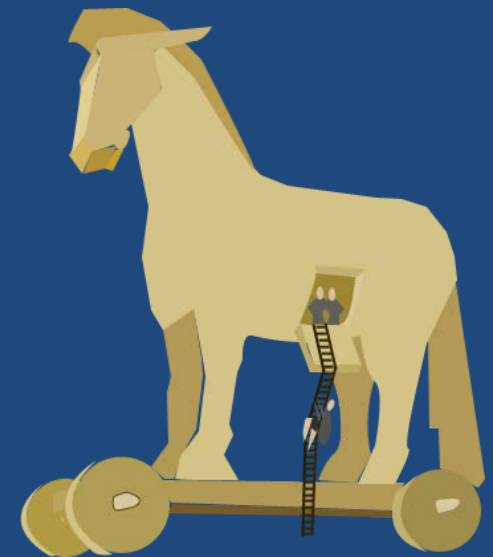
# Trojan Horse

The name for the Trojan Horse virus was derived from tale of the Trojan Horse constructed by the Greeks to gain access to the city of Troy. The wooden horse was left at the gates as an offering to Athena. The horse was then wheeled into the city and out came Greek fighters hiding inside. <http://www.britannica.com/topic/Trojan-horse>

A Trojan horse virus is a form of malware that is dressed up as something interesting or software from a source we are familiar with. The purpose is to trick the person into installing it. This allows the creator of the Trojan to do damage to data or software on your computer. They also will set up a 'back door' or access point that allows them to access your system.

Trojan viruses don't spread by infecting other files and they cannot duplicate themselves.

<http://www.webopedia.com/DidYouKnow/Internet/virus.asp>



# Worms

Worms are malware that can duplicate itself and spread to other computers. Worms always do something bad, even if it is just slowing things down.

Worms will frequently set up the ability for computers to be taken over by the worm's author by creating backdoors on the host computer. These computers are then called a "zombie computer". "Zombie computers" can be used to send out spam or as a shield to hide the web address of people who want to do bad things.

<http://www.webopedia.com/TERM/Z/zombie.html>





# Virus

A virus is a small program that is created to spread from one computer to the next and to mess up the way your computer works.

Many times viruses hop from computer to computer via email attachments or messages. They can also hide in funny pictures(memes), e-cards, or other desirable file attachments. It can also be sent through an instant message.

A virus can corrupt your data, or worse, delete it. It can also email copies of itself to your friends.

Keeping your anti-virus software up to date is key to protecting against the latest viruses and other security threats.

<https://www.microsoft.com/security/pc-security/virus-whatis.aspx>

# Social Media



Privacy settings on social media accounts are set up as public when you first get one. Unless you want everyone to be able to look at all of your photos and other private stuff, you must go into your account settings and change this.

Something to remember is whatever you post and say on your page can be shared by your friends. Think about what you post online, BEFORE you do it. What you post, could be seen by anyone at any time depending on your settings and the friends you keep. Because we can take pictures of our screens, there is really no setting that can protect you. Think twice about what you are sharing with others, so there are no regrets later.

Make sure you know the people that you accept friend requests from. Sometimes people try to friend you to hack your Facebook account or access your contacts. Once you are hacked they will send out strange messages or friend requests to your contacts. Protect your friends and yourself by being cautious with friends and creating strong passwords for your social media accounts.

# Geotagging



Geotagging is the bit of data that your electronic device packages with your picture that has information about where the picture was taken. This is something that can be turned on and off in your device and typically comes turned on until you change the setting.

When your photo is geotagged, this gives people information about your location. Letting outsiders know where you are, can allow them to plan to steal your belongings or vandalize your home.

Consider if you post a photo every Wednesday in your outfit ready to walk to ball practice and geotagging is turned on. This shows you have a routine and gives a rough area you will be in. A predator could come and take you away.

Another issue with allowing the geotagging to occur is you don't have control of your own privacy. Everyone does not need to know where you are all of the time, keep this information private.

<http://www.nytimes.com/2010/08/12/technology/personaltech>



# Be Careful of What You Say!



Defamation: Defamation is the blanket word used for all types of untrue statements made about others. [Definition of Defamation on Law.com](#)

Slander: When someone orally tells one or more people an untruth about someone, which will harm the reputation of the person it is about. It is not slander if the untruth is in writing of some sort or if it is broadcast through television or radio.

[Definition of Slander on Law.com](#)

Libel: This is where someone publishes to print(including pictures), written word, online posts, blogs, articles, or broadcast through radio, television, or film, an untruth about another which will do harm to the person's reputation. [Definition of Libel on Law.com](#)



# Be Careful of What You Say!



Much of the things people post online may get ignored, and you may get lucky and avoid legal action. But, when someone gets angry and files a lawsuit it can cause a major headache and possibly hit you hard in the wallet.

You might think you should have a right to openly complain about a company and their bad service or lousy product. Well when it comes to this, it is not always that simple. You can get sued for this and even if the judge agrees with you, you still have to pay for a defense attorney. Think twice and make sure that whatever you have to say is worth any headache you may have pop up later.

<http://ideas.time.com/2013/01/07/yelp-reviewers-beware-you-can-get-sued/>

On social media, people get into the habit of letting their emotions get the better of them and they end up speaking their minds about others online. When that person feels that this damages their character, they may opt to sue the other person for defamation. Even if their case is not successful, the stress, money, and time that you spend defending yourself is not worth it. To read more about defamatory social media posts, [click here](#).



# Stranger Danger Online



When you think of being on your computer or other electronic device in your own home, you probably think you are safe. Your mom is in the next room, what could happen?

Well there are people online that are up to no good. They go in chat rooms and pop up on your instant messenger, looking for someone to “groom”.

What is grooming you say? Well, grooming is when a stranger (can be any age) finds someone they are interested in, usually a minor. They act really nice and maybe they pretend they are much younger than they really are, like they are a kid just like you. Then they try to get you to like them and to trust them. They may ask you not to tell anyone you are talking to them. This is not okay and is a warning sign of a possible groomer.

# How to Protect Yourself in Online Chats

- Choose chat sites designed for kids, such as [www.kidzworld.com](http://www.kidzworld.com). Kidzworld is moderated and its aim is to protect kids from unwanted requests and online bullying.
- Beware of people you don't know. If they are asking too many questions or being too friendly they may be up to no good.
- If someone asks you to send them a picture or sends you a picture or video that is inappropriate, tell an adult or report them to the site moderators.
- Don't give out personal information to strangers online
- Don't tell strangers where you live or give them your telephone number
- Don't send strangers pictures of you or others
- If you are being bullied or threatened online, tell an adult or someone you trust





# Cyberbullying

- Cyberbullying is the **willful and repeated harm** inflicted through the use of computers, cell phones, and other electronic devices.
- Using PhotoShop or other tools to create harassing images.
- Posting jokes about another person on the internet
- Using the internet to entice a group to physically harm another person.
- Making threats online using IM, email, social networking sites, or other electronic devices.



# Consequences of Cyberbullying

Anything that you write, pictures that you post, or videos that you upload can be used by your school to suspend you.

College students have been removed from their athletic teams and lost college funding for writing negative comments about their coach.

When applying to colleges, they will search online to see what kind of person you are. They can deny you access if they don't like what they find.

When businesses are looking at people to hire for a job they will many times use social media to see what kind of person they are. Mean or inappropriate type posts can prevent you from getting the job you desire.

Cyberbullying can also be considered a crime and participating in this type of behavior can land you in big trouble.

# Consequences of Cyberbullying

- § 18.2-152.7:1. Harassment by Computer; Penalty makes cyberbullying a crime.
- Carries a \$2500 fine and punishable by up to **12 months in prison.**

There are many websites designed to inform and decrease the number of bullying cases we see each year. The U.S. Department of Health and Human Services has created a website with lots of resources to help combat bullying of all kinds - [www.stopbullying.gov](http://www.stopbullying.gov)

If you experience cyberbullying or witness it, tell someone such as a school counselor, teacher, or a parent.





# The Effects of Cyberbullying

- Victims feel depressed, sad, angry, and frustrated.
- Victims become afraid and/or embarrassed to attend school.
- Can lead to low self-worth, family problems, academic problems, school violence, and bad behavior.
- Victims can also develop thoughts of killing themselves and possibly act on these feelings.
- There are no positive effects of cyberbullying, only pain and suffering for the victims.
- The affects of being bullied can affect the victim into adulthood and prevent them from being all they can be in the future.



# Dealing with Cyberbullying

- Never do the same thing back, 2 wrongs don't make a right
- Tell them to stop
- Block their access to you
- Report it to the site you are on such as Facebook or Twitter
- NEVER pass along messages from cyberbullies, stop the spread of this behavior
- Set up privacy controls and keep the bully out of your friends list
- Don't be a cyberbully yourself
- If you witness someone getting bullied, tell someone so it can be stopped. Many times the person being bullied won't tell out of fear.
- Spread the word that bullying is not cool
- Don't laugh or encourage the bully, it is not funny and it can lead to major trouble for the person doing the bullying.





# About Sexting



“Sexting” is when someone sends or receives sexually explicit or non-PG Rated pictures or video electronically, mainly via cell phones or tablets.

The numbers on how many teens say that they have sent/posted nude or semi-nude pictures or videos of themselves is upsetting.

20% of teens between 13 to 19 years of age have engaged in sexting.

22% of teen girls

18% of teen boys

11% of teen girls between 13 to 16 years of age have engaged in sexting.

Did you know that if you forward a picture of a sexual or nude photo of someone underage, you are as responsible for the image as the original sender?? You can be charged with a crime.

Many teens don't realize that if you send a picture of yourself that is inappropriate and that picture ends up online, it could be there forever. You can never fully delete things that end up on the web.



# About Sexting



There is no age minimum that protects young people from getting charged with a sexual offense.

Something that you think is okay or just a joke, might land you in a ton of trouble. For example, you might take a picture of your friend naked to embarrass them, but if they are under the age of 18, this is considered production of child pornography.

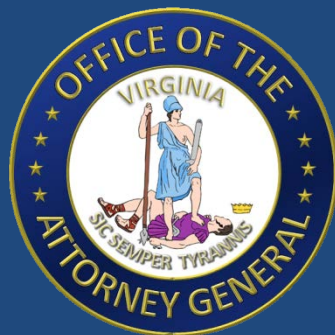
If you are sent something inappropriate, do not share it and don't delete it. Tell an adult immediately. You may feel like you are getting your friend into trouble, but you are protecting yourself and you are protecting them. They may not be thinking about the consequences or the effect this behavior can have on their future.

Anyone that gets convicted of a sex offense, will have to register as a sex offender. Sex offenders have to keep their address updated and keep a current photo with the police. The information goes on the sex offender registry where anyone can go and see your picture and where you live online.

**REMEMBER:** You can't control what other people do with your photos. Even if you think you are sending it to someone you can trust, they may end up surprising you. You can't trust anyone with something as private as that. Don't Do It!

# Legal Consequences of Sexting

- The Virginia Department of Education has an excellent resource with real life examples of the consequences of sexting that can be found [here](#).
- The Attorney General's Virginia Rules website is designed to give Virginia Youth information on all the laws in the state. [Virginia Rules](#) has extensive information on sexting and other internet security risks.
- This article in The Virginian-Pilot tells a story of five Virginia teens getting charged with felonies for sexting and being in possession of sexually explicit photos of a minor, read more about it [here](#).



Information Provided By:  
Office of the Attorney  
General

202 North Ninth Street  
Richmond, Virginia 23219

(804) 786-2071

[www.ag.virginia.gov](http://www.ag.virginia.gov)

G

Zoning Certification Letter  
(MANDATORY)

*County of Spotsylvania*  
*Founded 1721*

*Board of Supervisors*  
GREG BENTON  
KEVIN MARSHALL  
TIMOTHY J. McLAUGHLIN  
DAVID ROSS  
GARY F. SKINNER  
PAUL D. TRAMPE  
CHRIS YAKABOUSKI



Kimberly Pomatto  
Interim Zoning Administrator

9019 Old Battlefield Blvd  
Suite 300  
Spotsylvania, VA 22553  
540/507-7222  
[zoning@spotsylvania.va.us](mailto:zoning@spotsylvania.va.us)

*Service, Integrity, Pride*

September 11, 2019

Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220  
Attention: JD Bondurant

**Re: Zoning Confirmation for Palmer's Creek Development,  
Tax Maps 49-19-1, 49-19-3, 49-19-4, and 49-A-114A (Portion)**

Mr. Bondurant:

In response to a request from Bonaventure please be advised of the following:

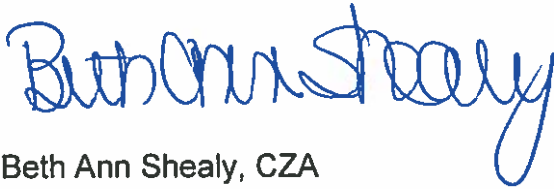
1. The Properties are located within the County of Spotsylvania, Virginia.
2. Tax Maps 49-19-1, 49-19-3, and 49-19-4 are zoned Mixed Use-5 (MU-5). Tax Map 49-A-114A is zoned Rural (RU), Commercial-3 (C-3), and Mixed Use-5 (MU-5). A copy of the applicable sections of the Zoning Ordinance for the Property (including zoning classification, setback, height, and bulk requirements) is attached.
3. Parent parcels Tax Map 49-A-112 and Tax Map 49-A-114, as well as a portion of Tax Map 49-A-114A, are part of Rezoning Case R16-0009 for Palmer's Creek Development. A copy of the conditions and the Generalized Development Plan (GDP) for this case is attached. Phase I of the development of residential buildings shall consist of approximately 200 residential units, as shown on the GDP, and the maximum building height of this phase shall be four stories. A clubhouse may also be part of Phase 1.
4. No application for rezoning of the Properties, for a Special Use Permit, or for a Variance in connection with the Properties is now pending.

Palmer's Creek Development  
September 11, 2019  
Page 2

5. The undersigned is not aware of any other permit or license requirement which a purchaser must obtain before they may acquire the Properties or before the Properties may continue to be used in the manner in which they are presently being used.
6. The Zoning Office has no record of any pending zoning violations having been filed with respect to the Properties and the undersigned is unaware of any violations of the applicable portions of the Zoning Ordinance.

If you have additional questions, please feel free to contact me directly at the Zoning Office, 540-507-7275.

Sincerely,



Beth Ann Shealy, CZA  
Code Enforcement Officer

Attachments: Real Estate Sheets  
Tax Map Sheet  
Copy of Zoning Ordinance Excerpts  
Copy of Conditions and GDP for R16-0009  
Copy of Paid Invoice

cc: File Copy



# Zoning Certification

**DATE:**

**TO:** Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220  
Attention: JD Bondurant

**RE: ZONING CERTIFICATION**

Name of Development: Palmer Creek

Name of Owner/Applicant: BWF Palmers Creek, LLC

Name of Seller/Current Owner: Palmers Creek, LLC

The above-referenced Owner/Applicant has asked this office to complete this form letter regarding the zoning of the proposed Development (more fully described below). This certification is rendered solely for the purpose of confirming proper zoning for the site of the Development. It is understood that this letter will be used by the Virginia Housing Development Authority solely for the purpose of determining whether the Development qualifies for points available under VHDA's Qualified Allocation Plan for housing tax credits.

**DEVELOPMENT DESCRIPTION:**

Development Address:  
8934 Jefferson Davis Highway  
Spotsylvania, VA 22407

Legal Description:  
See attached for full legal description

**Proposed Improvements:**

<input checked="" type="checkbox"/> New Construction:	<u>200</u> # Units	<u>2</u> # Buildings	<u>50,239 + 6,692</u> Total Floor Area Sq. Ft.	Clubhous
<input type="checkbox"/> Adaptive Reuse:	<u>      </u> # Units	<u>      </u> # Buildings	<u>      </u> Total Floor Area Sq. Ft.	
<input type="checkbox"/> Rehabilitation:	<u>      </u> # Units	<u>      </u> # Buildings	<u>      </u> Total Floor Area Sq. Ft.	

## Zoning Certification, cont'd

Current Zoning: Mixed Use-5 allowing a density of \_\_\_\_\_ units per acre, and the following other applicable conditions: \_\_\_\_\_

Proffer conditions and general developed plan attached

### Other Descriptive Information:

Palmer's Creek will be a 200 unit ground up development. The community will feature two residential buildings with 100 units each. Each building will be four stories with elevator service and interior conditioned corridors. The property will also feature an approximately 6,600 SF clubhouse with pool, business center, state of the art gym and ample entertaining areas and activity rooms.

### LOCAL CERTIFICATION:

Check one of the following as appropriate:

- The zoning for the proposed development described above is proper for the proposed residential development. To the best of my knowledge, there are presently no zoning violations outstanding on this property. No further zoning approvals and/or special use permits are required.
- The development described above is an approved non-conforming use. To the best of my knowledge, there are presently no zoning violations outstanding on this property. No further zoning approvals and/or special use permits are required.



Signature

Beth Ann Shealy, CZA

Printed Name

Code Enforcement Officer

Title of Local Official or Civil Engineer

540-507-7275

Phone:

9/11/19

Date:

### NOTES TO LOCALITY:

1. Return this certification to the developer for inclusion in the tax credit application package.
2. Any change in this form may result in disqualification of the application.
3. If you have any questions, please call the Tax Credit Allocation Department at (804) 343-5518.

Disp Parcel/Land/Owner Details

Map No 49 - ( 19 ) Blk - Lot 1 -

See comments \*

Legal Palmers Creek Article 13 Physical Assigned on Request  
 Descr Parcel 1 Address Fredericksburg, VA  
 from 49 - ( A ) - 112 - Area: 9.53 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: (Please check Map) Class: 03 Multi-Family  
 -----Owner: 1921915 -----Bill to: 1921915 -----  
 Palmers Creek LLC (Same as Owner)

6308 Five Mile Centre Park #215  
 FREDERICKSBURG VA 22407 0

Seq#	Cust#	Tfr-Type	Dated	DB Book	Page	Acres/SqFt	Sale Price \$
1	1921915		6/14/2019	I 0009	88	9.53 A	0
ASSESSMENT:		Land Value		Bldg Value		Imprv Value	TOTAL
Cur:		0		0		0	0
Old:		0		0		0	0

Hit ENTER for Screen List

NEXT SCREEN >>>>> ?

Use ? to display Screen List Options F3=Exit program

Disp Parcel/Land/Owner Details

Map No 49 - ( 19 ) BlK - Lot 3 -

See comments \*

Legal Palmers Creek Article 13 Physical Assigned on Request  
 Descr Rev TM 49-A-112 Address Fredericksburg, VA  
 from 49 - ( A ) - 112 - Area: 4.04 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: (Please check Map) Class: 04 Commercial - Industrial  
 -----Owner: 1921915 -----Bill to: 1921915 -----  
 Palmers Creek LLC (Same as Owner)

6308 Five Mile Centre Park #215  
 FREDERICKSBURG VA 22407 0

Seq#	Cust#	Tfr-Type	Dated	DB Book Page	Acres/SqFt	Sale Price \$
1	1921915		6/14/2019	I 0009 88	4.04 A	0
		ASSESSMENT:	Land Value	Bldg Value	Imprv Value	TOTAL
Cur:			0	0	0	0
Old:			0	0	0	0

Hit ENTER for Screen List

NEXT SCREEN >>>>> ?

Use ? to display Screen List Options F3=Exit program

Disp Parcel/Land/Owner Details

Map No 49 - ( A ) Blk - Lot 112 - See comments \*

Special record: SUSPENDED REC! Record Type: S  
 Legal adj Martin Physical 8936 Jefferson Davis Hwy  
 Descr Address 8934 & 8932 Jeff Davis HW  
 from 0 ( ) Area: 15.00 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: MU5 (Please check Map) Class: 04 Commercial - Industrial  
 -----Owner: 1921915 -----Bill to: 1921915 -----  
 Palmers Creek LLC (Same as Owner)

6308 Five Mile Centre Park #215  
 FREDERICKSBURG VA 22407 0

Seq#	Cust#	Tfr-Type	Dated	DB Book Page	Acres/SqFt	Sale Price \$
3	1921915	M	3/30/2006	I 0010 842	15.00 A	0
		ASSESSMENT:	Land Value	Bldg Value	Imprv Value	TOTAL
Cur:	1/01/19		1,268,900	0	0	1,268,900
Old:	1/01/18		914,800	0	0	914,800

Hit ENTER for Screen List

NEXT SCREEN >>>>> ?

Use ? to display Screen List Options F3=Exit program

Disp Parcel/Land/Owner Details

Map No 49 - ( 19 ) BlK - Lot 4 -

See comments \*

Legal Palmers Creek Article 13 Physical Assigned on Request  
 Descr Rev TM 49-A-114 Address Fredericksburg, VA  
 from 49 - ( A ) - 114 - Area: 6.89 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: (Please check Map) Class: 03 Multi-Family  
 -----Owner: 1921915 -----Bill to: 1921915 -----  
 Palmers Creek LLC (Same as Owner)

6308 Five Mile Centre Park #215  
 FREDERICKSBURG VA 22407 0

Seq#	Cust#	Tfr-Type	Dated	DB Book Page	Acres/SqFt	Sale Price \$
1	1921915		6/14/2019	I 0009 88	6.89 A	0
ASSESSMENT:		Land Value		Bldg Value	Imprv Value	TOTAL
Cur:		0		0	0	0
Old:		0		0	0	0

Hit ENTER for Screen List

NEXT SCREEN >>>>> ?

Use ? to display Screen List Options F3=Exit program

Disp Parcel/Land/Owner Details

Map No 49 - ( A ) Blk - Lot 114 - See comments \*

Special record: SUSPENDED REC! Record Type: S  
 Legal Martin Rt 1 Physical 9012 Jefferson Davis Hwy  
 Descr Address Fredericksburg, VA  
 from 0 ( ) Area: 5.97 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: MU5 (Please check Map) Class: 04 Commercial - Industrial  
 -----Owner: 1921915 -----Bill to: 1921915 -----  
 Palmers Creek LLC (Same as Owner)

6308 Five Mile Centre Park #215  
 FREDERICKSBURG VA 22407 0

Seq#	Cust#	Tfr-Type	Dated	DB Book Page	Acres/SqFt	Sale Price \$
3	1921915	M	3/30/2006	I 0010 842	5.97 A	0
ASSESSMENT: Land Value Bldg Value Imprv Value TOTAL						
Cur:	1/01/19		481,200	0	0	481,200
Old:	1/01/18		546,100	0	0	546,100

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Disp Parcel/Land/Owner Details

Map No 49 - ( A ) BlK - Lot 114 A See comments \*

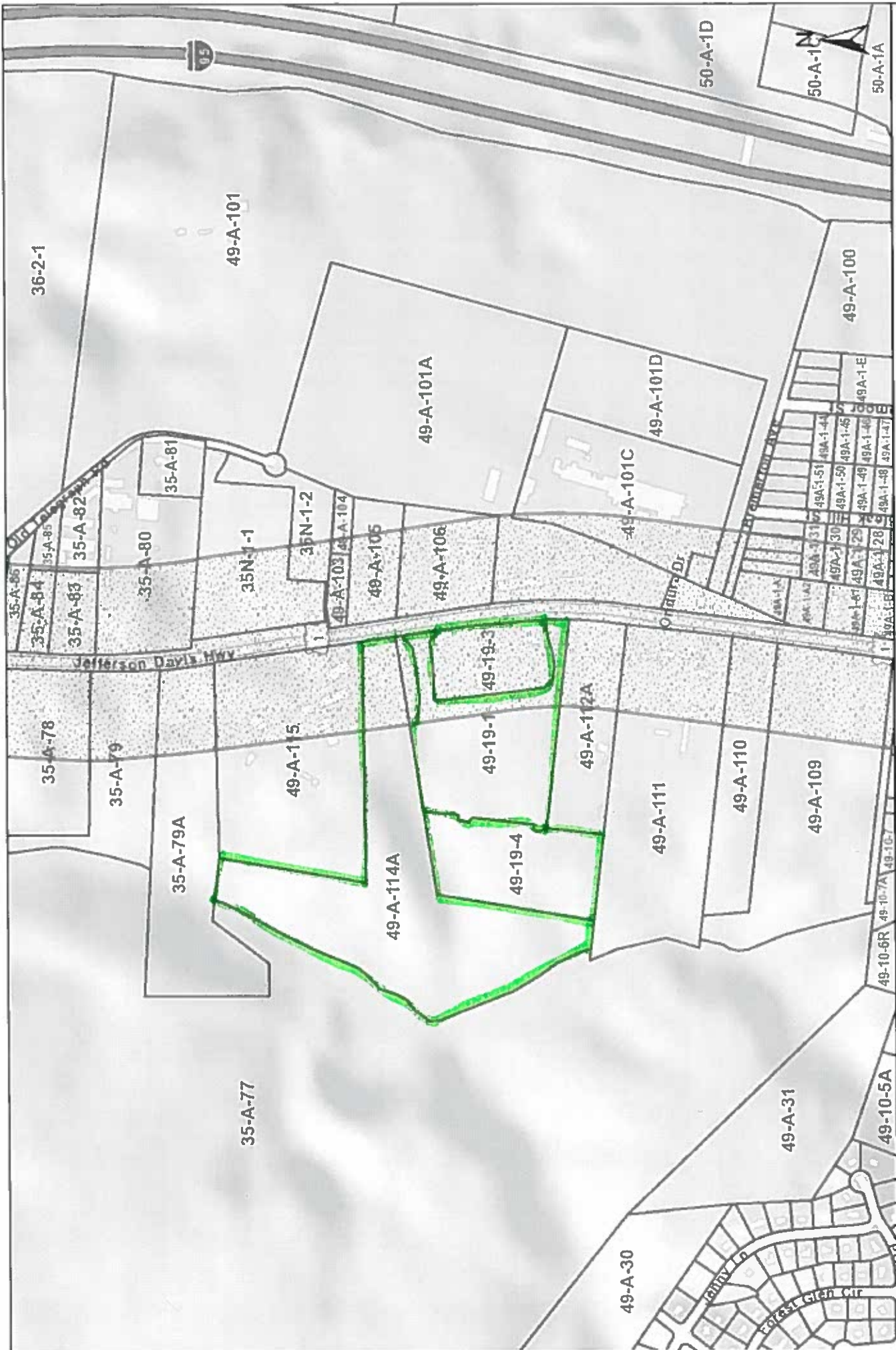
Legal Action taken: RB

Legal Palmer Physical Jefferson Davis Hwy  
 Descr Address Fredericksburg, VA  
 from 35 - ( A ) - 79 - Area: 21.09 A assessed at \$ 0  
 District: 4 Courtland Sub-Div: ? not known  
 Zoning: MZ (Please check Map) Class: 04 Commercial - Industrial  
 -----Owner: 2941961 -----Bill to: 2941961 -----  
 Massaponax Land Company LLC (Same as Owner)

1005 Sophia St  
 FREDERICKSBURG VA 22401 0

Seq#	Cust#	Tfr-Type	Dated	DB Book Page	Acres/SqFt	Sale Price \$
1	2941961		4/15/2011	I 0006 65	21.09 A	0
		ASSESSMENT:	Land Value	Bldg Value	Imprv Value	TOTAL
Cur:	1/01/19		1,208,500	0	0	1,208,500
Old:	1/01/18		1,162,100	0	0	1,162,100

Hit ENTER for Screen List Warning:there are deferred L-Use Taxes Y  
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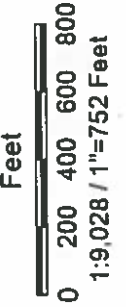


Date: 9/11/2019



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Title:



## DIVISION 24. - RURAL (Ru) DISTRICT

### Sec. 23-6.24.1. - Purpose and intent.

The purpose of the rural (Ru) district is to protect and maintain the rural character of the county and to protect and enhance the agricultural economy of the county, while providing for low density residential development in a rural setting.

(Ord. No. 23-72, 4-22-97; Ord. No. 23-99, 2-12-02; Ord. No. 23-106, 11-25-03; Ord. No. 23-160, 1-13-15)

### Sec. 23-6.24.2. - Permitted uses.

The following uses may be established as permitted uses in the rural (Ru) district:

- (1) Accessory uses as permitted by article 5, division 3 of this chapter;
- (2) Agriculture;
- (3) Antique shop, limited to parcels fronting and/or whose chief point of ingress/egress is upon state maintained roads limited to State Route number 1 through State Route number 712;
- (4) Art and craft studio, limited to parcels fronting and/or whose chief point of ingress/egress is upon state maintained roads limited to State Route number 1 through State Route number 712;
- (5) Bed and breakfast I;
- (6) Community center;
- (7) Dwelling, single-family detached;
- (8) Equestrian facility;
- (9) Expansion of a place of worship, but not expansion of the seating capacity in the sanctuary of such place of worship;
- (10) Expansion of a public school;
- (11) Game preserves, wildlife sanctuaries and fish hatchery;
- (12) Golf driving range;
- (13) Home enterprise in accordance with division 23-5.4A;
- (14) Home occupation in accordance with division 23-5.4;
- (15) Miniature golf;
- (16) Public facility/use;
- (17) Quasi-public park, playground, athletic field and related facility;
- (18) Repair service establishment limited to parcels fronting and/or whose chief point of ingress/egress is upon state maintained roads limited to State Route number 1 through State Route number 712.

(Ord. No. 23-72, 4-22-97; Ord. No. 23-101, 6-25-02; Ord. No. 23-114, 8-9-05; Ord. No. 23-152, 1-8-13; Ord. No. 23-153, 2-12-13; Ord. No. 23-155, 3-11-14; Ord. No. 23-160, 1-13-15)

Sec. 23-6.24.3. - Special uses.

The following uses may be established as special uses in the rural (Ru) district, subject to approval by the board of supervisors in accordance with article 4, division 5 of this chapter:

- (1) Adult day care center;
- (2) Airport, public or private;
- (3) Animal shelter;
- (4) Antique shop, inconsistent with the use allowed by-right herein;
- (5) Art and craft studio, inconsistent with the use allowed by-right herein;
- (6) Assisted living facility;
- (7) Bed and breakfast II;
- (8) Camp or recreation ground;
- (9) Cemetery;
- (10) Child care center;
- (11) Civic, social or fraternal facility;
- (12) Civic and sports arena;
- (13) Contractor's office and shop;
- (14) Convenience store;
- (15) Country club;
- (16) Cultural center, museum or similar facilities;
- (17) Equestrian event facility;
- (18) Farm equipment and supplies sales establishment;
- (19) Fuel dispensing service;
- (20) Funeral home adjacent to a perpetual care cemetery;
- (21) Garden center;
- (22) Golf course and clubhouse;
- (23) Hospital;
- (24) Indoor commercial recreation/athletic facilities;
- (25) Kennel;
- (26) Lumber yard;
- (27) Nursing home;
- (28) Outdoor sports and recreation, commercial;

- (29) Place of worship;
- (30) Private school;
- (31) Public school;
- (32) Public utility, light;
- (33) Religious retreat facility;
- (34) Repair service establishment, inconsistent with the use allowed by-right herein;
- (35) Sawmill;
- (36) Solar energy facility;
- (37) Summer camp;
- (38) Telecommunication tower;
- (39) Veterinary hospitals/services;
- (40) Wetland mitigation bank;
- (41) Wood by-products recycling center.

(Ord. No. 23-72, 4-22-97; Ord. No. 23-78, 2-9-99; Ord. No. 23-79, 4-13-99; Ord. No. 23-97, 10-23-01; Ord. No. 23-100, 4-9-02; Ord. No. 23-101, 6-25-02; Ord. No. 23-114, 8-9-05; Ord. No. 23-152, 1-8-13; Ord. No. 23-160, 1-13-15; Ord. No. 23-173, § 5, 11-9-17)

#### Sec. 23-6.24.4. - Development standards.

All uses and structures in the rural (RU) district shall meet the following development standards, except as this chapter specifically provides otherwise:

(a) *Density:*

- (1) Residential: One (1) dwelling unit per three (3) gross acres.
- (2) Non-residential: Floor area ratio of 0.1.
  - (i) Floor area ratio limitation may be exceeded by means of a special use permit issued by the board of supervisors.
- (3) Residential lot yield from any parent parcel existing as of February 12, 2002 shall not exceed ten (10) units.
- (4) Residential (family division): One (1) dwelling unit per two (2) gross acres.
- (5) Residential (annual division): One (1) dwelling unit per three (3) gross acres, and the residential lot yield from any parent parcel which existed on February 12, 2002 shall not exceed six (6) lots.

(b) *Minimum lot area:*

- (1) Agriculture: As defined in section 23-2.1.4.
- (2) Cemeteries: One (1) acre.

- (3) Public utility, light: One (1) acre.
  - (4) Recreation trailer camps, campgrounds and summer camps: Ten (10) acres.
  - (5) Dwelling, single-family detached:
    - (i) Conventional subdivision: Three (3) acres.
    - (ii) Cluster subdivision: Two (2) acres.
    - (iii) In a family division: Two (2) acres.
    - (iv) In an annual division: Three (3) acres.
  - (6) All other uses: Two (2) acres.
- (c) *Minimum lot width:*
- (1) Conventional subdivision: Two hundred (200) feet.
  - (2) Cluster subdivision: One hundred fifty (150) feet.
  - (3) Family division: One hundred fifty (150) feet.
  - (4) Annual division: One hundred fifty (150) feet.
- (d) *Minimum public road frontage:*
- (1) Conventional subdivision: Two hundred (200) feet; one hundred (100) feet on a cul-de-sac.
  - (2) Cluster subdivision: One hundred fifty (150) feet; eighty (80) feet on a cul-de-sac.
  - (3) Family division: As set out in subsection 20-14.1.1(D)(4).
  - (4) Annual division: One hundred fifty (150) feet if divided off the public road or refer to subsection 20-14.1.1(D)(4).
- (e) *Minimum yards:*
- (1) Front yard: Thirty (30) feet.
  - (2) Side yard: Ten (10) feet.
  - (3) Rear yard: Thirty-five (35) feet.
- (f) *Maximum height:*
- (1) Agricultural buildings and structures: None.
  - (2) All other uses: Thirty-five (35) feet.
- (g) *General development standards:* Refer to article 5.
- (h) *Landscaping and screening:* Refer to article 5, division 5.
- (i) *Off-street parking:* Refer to article 5, division 9.
- (j) *Signs:* Refer to article 5, division 8.
- (k) *Open space:*
- (1) Conventional subdivision: No requirement.
  - (2) Cluster subdivision: Twenty (20) percent.
  - (3) Family and annual division: No requirement.

(Ord. No. 23-72, 4-22-97; Ord. No. 23-90, 2-27-01; Ord. No. 23-99, 2-12-02; Ord. No. 23-100, 4-9-02; Ord. No. 23-104, 3-11-03; Ord. No. 23-106, 11-25-03; Ord. No. 23-110, 12-14-04; Ord. No. 23-121, 10-9-07; Ord. No. 23-132, 3-10-09; Ord. No. 23-160, 1-13-15)

DIVISION 19. COMMERCIAL 3 (C-3) HIGHWAY DISTRICT

Sec. 23-6.19.1. - Purpose and intent.

The purpose of the commercial 3 (C-3) highway district is to provide for areas of general commercial activity in the county to meet the local and regional commercial needs at high intensity.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.19.2. - Permitted uses.

The following uses may be established as permitted uses in the commercial 3 (C-3) highway district, subject to site plan approval:

- (1) Accessory uses as permitted by article 5, division 3 of this chapter;
- (2) Adult day care center;
- (3) Amusement arcades;
- (4) Animal shelter;
- (5) Antique shop;
- (6) Art and craft studio;
- (7) Assisted living facility;
- (8) Auction establishments;
- (9) Billiard and pool hall;
- (10) Building materials yard;
- (11) Business service and supply establishment;
- (12) Car wash;
- (13) Child care center;
- (14) Civic, social or fraternal facility;
- (15) Community center;
- (16) Contractor's offices and shops;
- (17) Convenience store;
- (18) Convents, monasteries, seminaries and nunneries;
- (19) Cultural centers, museums or similar facilities;
- (20) Eating establishment;
- (21) Eating establishment, carry out/fast food;
- (22) Financial institutions;
- (23) Fuel dispensing service;
- (24) Funeral home;
- (25) Garden center;
- (26) Golf driving range;
- (27) Heavy equipment and specialized vehicle sale, rental and service establishment;



- (28) Hospital;
- (29) Hotel, motel;
- (30) Indoor commercial recreation/athletic facility;
- (31) Live entertainment, indoor;
- (32) Medical care facility;
- (33) Micro-brewery, winery, cidery, distillery;
- (34) Miniature golf;
- (35) Mini-warehousing establishments;
- (36) Nursing home;
- (37) Offices;
- (38) Outdoor sports and recreation, commercial;
- (39) Personal service establishment;
- (40) Places of worship;
- (41) Private school;
- (42) Public facility/uses;
- (43) Public school;
- (44) Quasi-public parks, playgrounds, athletic fields and related facilities;
- (45) Repair service establishments;
- (46) Retail sales establishments;
- (47) Scientific research and development establishment;
- (48) Shopping centers;
- (49) Theaters;
- (50) Vehicle light service establishments;
- (51) Vehicle sale, rental, and ancillary service establishment, large scale;
- (52) Vehicle major service establishment;
- (53) Veterinary hospitals/services;
- (54) Wholesale trade establishments.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-81, 6-22-99; Ord. No. 23-98, 2-12-02; Ord. No. 23-105, 6-24-03; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15; Ord. No. 23-174, § 1, 11-28-17)

#### Sec. 23-6.19.3. - Special uses.

The following uses may be established as special uses in the commercial 3 (C-3) highway district, subject to approval by the board of supervisors in accordance with article 4, division 5 of this chapter:

- (1) Above ground fuel storage tanks exceeding one-thousand (1,000) gallons;
- (2) Bus station/depot/terminal;
- (3) Civic and sports arena;
- (4) College or university;

- (5) Crematory or crematorium as part of a funeral home;
- (6) Dormitory, fraternity/sorority houses, or other residence halls;
- (7) Drive-in motion picture theaters;
- (8) Heliports;
- (9) Helistop;
- (10) Live entertainment, outdoor;
- (11) Open air market;
- (12) Parking, commercial off-street, as a principle use;
- (13) Public utility, light;
- (14) Railroad station/depot/terminal;
- (15) Rooming/boarding houses;
- (16) Telecommunications tower;
- (17) Establishing a permitted use as specified in section 23-6.19.2 or special use as specified in section 23-6.19.3 with a building exceeding the height limitations set out in section 23-6.19.6(1);
- (18) Vehicle sale, rental, and ancillary service establishment, small scale;
- (19) Wetland mitigation bank.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-81, 6-22-99; Ord. No. 23-82, 7-13-99; Ord. No. 23-83, 8-24-99; Ord. No. 23-97, 10-23-01; Ord. No. 23-98, 2-12-02; Ord. No. 23-103, 2-11-03; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15; Ord. No. 23-174, § 1, 11-28-17)

Sec. 23-6.19.4. - Development standards: Use limitations.

1. The outdoor storage, loading and display of goods shall be limited to the area or areas so designated for those uses on an approved site plan.
2. All outdoor storage and loading areas, parking of construction equipment, construction vehicles, tractors and/ or trailers of tractor- trailer trucks shall be screened from public right-of-way by site design, enclosure, or vegetation.
3. Above ground storage tanks for the storage of liquid or pressurized fuel for sale shall not exceed one-thousand (1,000) gallons. Above ground storage tank size may be increased above one-thousand (1,000) gallons if permitted by the board of supervisors in accordance with the provisions of section 23-6.19.3.
4. All refuse shall be contained in completely enclosed facilities.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.19.5. - Lot size requirements.

1. Minimum lot area: Twenty thousand (20,000) square feet.
2. Minimum lot width: One hundred (100) feet.
3. The lot size requirements do not apply to development in accordance with an approved generalized development plan (GDP). The board of supervisors may waive or modify the lot size requirements by special use.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-105, 6-24-03; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.19.6. - Bulk Regulations.

1. *Maximum building height:* Seventy-five (75) feet, subject to increase as may be permitted by the board of supervisors in accordance with the provisions of section 23-6.19.3.
2. *Minimum yard requirements.*
  - A. Front yard: Thirty (30) feet.
  - B. Side yard: No requirement.
  - C. Rear yard: Twenty (20) feet.
  - D. Development in accordance with an approved generalized development plan (GDP) shall be subject to the minimum yard requirements only with respect to development along its peripheral lines and in such cases parking lots shall be located no closer than thirty (30) feet to any public street or highway right-of-way.
3. *Maximum floor area ratio:* 1.0.
4. The board of supervisors may waive or modify the floor area ratio limitations by special use.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-83, 8-24-99; Ord. No. 23-84, 2-22-00; Ord. No. 23-104, 3-11-03; Ord. No. 23-105, 6-24-03; Ord. No. 23-122, 10-9-07; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.19.7. - Open space.

Fifteen (15) percent of the gross area shall be landscaped open space. As used herein, "gross area" refers to either the total parcel area or, where applicable, the total aggregate land area subject to an approved generalized development plan.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-105, 6-24-03; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.19.8. - Additional requirements.

1. *General development standards:* Refer to article 5.
2. *Landscaping and screening:* Refer to article 5, division 5.
3. *Off-street parking:* Refer to article 5, division 9.
4. *Signs:* Refer to article 5, division 8.
5. *Curb, gutter and sidewalk:* Refer to article 5, Design Standards Manual.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-79, 4-13-99; Ord. No. 23-160(2), 9-22-15)

DIVISION 28. -MIXED USE (MU) DISTRICT

Sec. 23-6.28.1. - Purpose and intent.

The mixed use (MU) district creates a flexible approach to development, to include infill and redevelopment, by allowing a variety of interrelated and compatible commercial, office, residential, civic, recreational, and entertainment uses in a pedestrian-oriented neighborhood setting based on, but not limited to the following principles:

- (1) Connectivity of road networks, including connectivity of new local streets with existing local streets;
- (2) Connected pedestrian networks and pedestrian-friendly road design;
- (3) Reduced front and side yard building setbacks;
- (4) Mixed-use neighborhoods, including mixed housing types; and
- (5) Respects the character of adjacent properties and surrounding neighborhoods.

(Ord. No. 23-150, 9-25-12)

Sec. 23-6.28.2. - Applicability.

Unless expressly provided otherwise, any provision of this division that conflicts with another provision of the zoning ordinance or other applicable ordinance or regulation shall be deemed to control to the extent of such conflict.

(Ord. No. 23-150, 9-25-12)

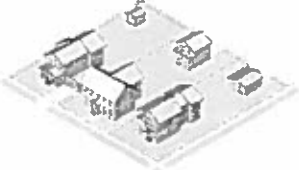
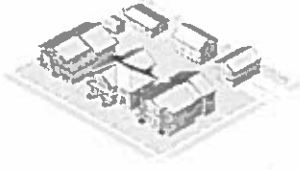
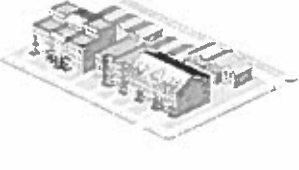





Sec. 23-6.28.3. - Sub-districts.

- (1) To meet the intent and purpose of the district, the following sub-districts are established:
  - a. *Residential attached (MU-1)*. The MU-1 sub-district is a residential district that permits detached and attached houses. The district also includes provision for nonresidential uses that may complement or help provide services to the residences.
  - b. *Residential townhouse (MU-2)*. The MU-2 sub-district is a more intensive residential district than the MU-1 sub-district. In addition to detached houses and attached houses, the MU-2 sub-district permits townhouses. The district also includes provision for nonresidential uses that may complement or help provide services to the residences.
  - c. *Residential mixed use (MU-3)*. In addition to detached houses, attached houses and townhouses, the MU-3 sub-district permits apartments. The sub-district also includes provisions for limited retail and office uses in addition to provisions for other nonresidential uses established in the lower intensity MU-1 and MU-2 sub-districts.
  - d. *Mixed use low (MU-4)*. The MU-4 sub-district is a mixed use district that permits retail, office and residential uses in a variety of building types up to four (4) stories in height. Residential configurations include attached houses, townhouses, and apartments on upper floors of mixed use buildings.
  - e. *Mixed use high (MU-5)*. The MU-5 sub-district is the highest intensity mixed use sub-district permitting retail, office and residential uses in a variety of building types. Maximum height in the district shall be established in the generalized development plan (GDP) adopted at the time of rezoning. Residential configurations include townhouses, and apartments on upper floors of mixed use buildings.

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15)

Sec. 23-6.28.4. - Development standards.

- (a) *Building types*. This section establishes and defines each building type to ensure that proposed development is consistent with the district goals for building form, physical character, land use and quality.

		
<p align="center"><b>(1) Detached House</b></p> <p>A building type designed primarily to accommodate one dwelling unit on an individual lot. In more intense sub-districts, a detached house may be used for mixed purposes.</p>	<p align="center"><b>(2) Attached House</b></p> <p>A building type designed primarily to accommodate two dwelling units on an individual lot. In more intense sub-districts, an attached house may be used for mixed purposes.</p>	<p align="center"><b>(3) Townhouse Building</b></p> <p>A building type designed primarily to accommodate two or more dwelling units consolidated side-by-side into a single structure, with no more than eight in a single building. In more intense sub-districts, a townhouse may be used for mixed purposes.</p>
		
<p align="center"><b>(4) Apartment Building</b></p> <p>A building type containing three or more dwelling units consolidated into a single structure. Units must be either situated wholly or partially over or under other units, or back to back with other units in the same structure.</p>	<p align="center"><b>(5) General Building</b></p> <p>A building type intended primarily for commercial, office, manufacturing and employment uses.</p>	<p align="center"><b>(6) Mixed Use Building</b></p> <p>A building type intended primarily for ground floor commercial uses with upper-story residential or offices uses.</p>
		
<p align="center"><b>(7) Civic Building</b></p> <p>A building type intended primarily for civic, institutional or public uses.</p>		<p align="center"><b>(8) Accessory Apartment</b></p> <p>A small dwelling located on the same lot as a detached house, attached house, or townhouse. An accessory apartment may be located above a garage.</p>

a. Building types are permitted by sub-district as set forth below. Shaded cells indicate allowed building types.

	MU-1	MU-2	MU-3	MU-4	MU-5
Detached House					
Attached House					
Townhouse Building					
Apartment Building					
General Building					
Mixed Use Building					
Civic Building					
Accessory Apartment					

b. A square footage amount equal to fifteen (15) percent of the land area within a sub-district may be the types of uses allowed in adjacent sub-districts.

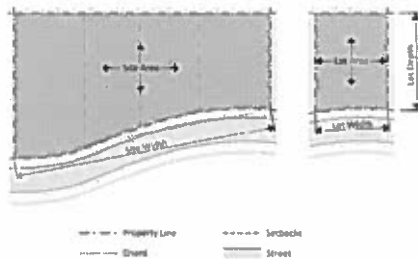
(c) *Requirements for all building types.*

(1) *Site.*

- a. *Defined.* A site is any lot or group of contiguous lots owned or functionally controlled by the same person or entity, assembled for the purpose of development.
- b. *Site area.* Site area is the area included within the rear, side and front lot lines of the site. Does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use.
- c. *Site width.* Site width is the distance between the side lot lines of the site (generally running perpendicular to a street) measured at the primary street property line along a straight line or along the chord of the property line.

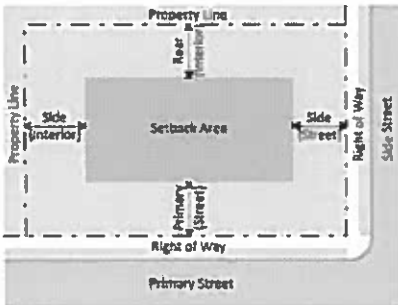
(2) *Lot.*

- a. *Defined.*
  - i. A parcel of land either vacant or occupied intended as a unit for the purpose, whether immediate or for the future, of transfer of ownership, or possession, or for the purpose of development.
  - ii. All lots must front on a street.
- b. *Lot standards.*
  - i. In the MU-1 district only one (1) principal structure is permitted per lot.
- c. *Lot area.* Lot area is the area included within the rear, side and front lot lines. Lot area does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use.
- d. *Lot width.* Lot width is the distance between the side lot lines (generally running perpendicular to a street) measured at the primary street property line along a straight line or along the chord of the property line.
- e. *Lot depth.* Lot depth is the distance between the front and rear property lines measured along a line midway between the side property lines.



(3) **Building setbacks.**

- a. **Setback types.** There are four (4) types of setbacks—primary street setback, side street setback, side setback and rear setback. Through lots are considered to have two (2) primary street setbacks.
- b. **Measurement of building setbacks.**
  - i. Primary and side street setbacks are measured from the edge of the right-of-way.
  - ii. Side setbacks are measured from the side property line.



- iii. Rear setbacks are measured from the rear property line or the edge of the right-of-way where there is an alley.
  - c. **Corner lots.** A corner lot shall have one (1) primary street. In determining the primary street, the following conditions must be considered:
    - i. The street with the highest street classification;
    - ii. The established orientation of the block, if any;
    - iii. The street abutting the longest face of the block;
    - iv. The street parallel to an alley within the block; and
    - v. The street from which the lot takes its address.
  - d. **Setbacks and utilities.** The zoning administrator may approve modified setbacks where necessary to accommodate the easement width for public and private utilities that are not permitted to be under a street or in an alley.
- (4) **Setback encroachments.** All buildings and structures must be located at or behind required setback lines, except as listed below.
- a. **Building features.**
    - i. Porches, stoops, balconies, galleries and awnings may encroach, provided that such extension is at least two (2) feet from the vertical plane of any lot line.
    - ii. Chimneys or flues may encroach up to four (4) feet, provided that such extension is at least two (2) feet from the vertical plane of any lot line.
    - iii. Building eaves, roof overhangs and light shelves may encroach up to five (5) feet, provided that such extension is at least two (2) feet from the vertical plane of any lot line.
    - iv. Bay windows, entrances and similar features that are less than ten (10) feet wide may encroach up to four (4) feet, provided that such extension is at least two (2) feet from the vertical plane of any lot line.
    - v. Unenclosed fire escapes or stairways may encroach up to four (4) feet into a required side or rear setback, provided that such extension is at least five (5) feet from the vertical plane of any lot line.
    - vi. Unenclosed patios, decks or terraces may encroach up to four (4) feet into a required side setback, or up to

eight (8) feet into a required rear setback, provided that such extension is at least five (5) feet from the vertical plane of any lot line.

- vii. Cornices, eaves, belt courses, sills, buttresses or other similar architectural features may encroach up to one and one-half (1½) feet.
- viii. Handicap ramps may encroach to the extent necessary to perform their proper function.
- ix. Structures below and covered by the ground may encroach into a required setback.

b. *Mechanical equipment and utility lines.*

- i. Mechanical equipment associated with residential uses, such as HVAC units and security lighting, may encroach into a required rear or side setback, provided that such extension is at least five (5) feet from the vertical plane of any lot line.
- ii. Sustainable energy systems, including solar panels and wind turbines, may extend into a required rear or side setback, provided that such extension is at least three (3) feet from the vertical plane of any lot line.
- iii. Rainwater collection or harvesting systems may extend into a required rear or side setback, provided that such extension is at least three (3) feet from the vertical plane of any lot line.
- iv. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may extend into a required rear or side setback.

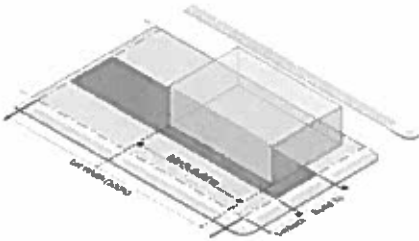
c. *Other permitted encroachments.*

- i. Fences and walls.
- ii. Signs.
- iii. Driveways.

(5) *Build-to zone.*

a. *Defined.*

- i. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum setback range from the edge of the right-of-way.
- ii. The required percentage specifies the amount of the front building facade that must be located in the build-to area, measured based on the width of the building divided by the width of the site or lot.

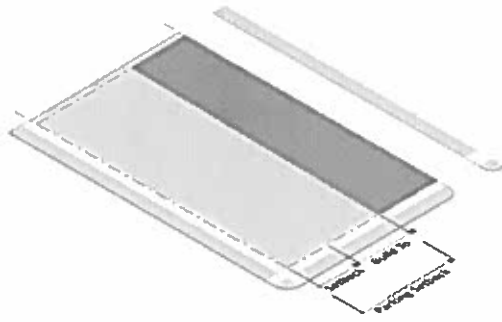


- b. *Corner lots.* On corner lots, a building facade must be placed within the build-to area for the first thirty (30) feet along the street extending from the block corner. No other build-to zone requirements apply on side streets that are not primary streets.
- c. *Encroachments.* With the exception of parking areas, all structures and uses customarily allowed on the lot are permitted in the build-to area.

(6) *Parking setbacks.*

- a. *Parking setback types.* There are four (4) types of parking setbacks—primary street setback, side street setback, side setback and rear setback. Through lots are considered to have two (2) primary street setbacks.
- b. *Measurement of parking setbacks.*
  - i. Primary and side street setbacks are measured from the edge of the right-of-way.
  - ii. Side setbacks are measured from the side property line.
  - iii. Rear setbacks are measured from the rear property line or the edge of the right-of-way if there is an alley.



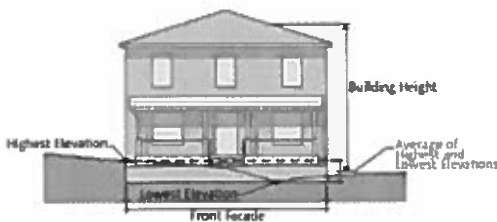


- c. *Parking not allowed.* On-site surface and structured parking must be located behind the parking setback line. This requirement is not intended to restrict on-street parking.
- d. Parking setback shall not apply to detached, attached, or townhouse lots.

(7) *Open space.*

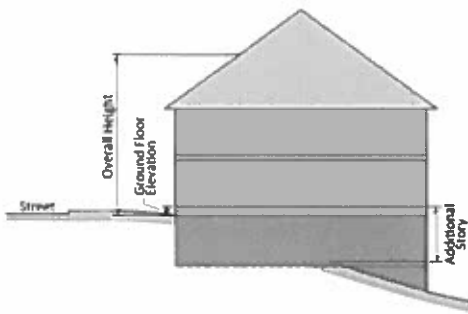
- a. *Defined.* For the purposes of this division, open space may be met on an average basis of the amount of open space on each lot shown on a final plat.
- b. *Standards.*
  - i. Open space may be met in one (1) contiguous open area or in multiple open areas on the lot; however, to receive credit the area must be at least five (5) feet in width and length. Setback areas that meet this requirement may be counted towards open area provided they meet the other requirements of this section.
  - ii. Open space must be located at grade, and cannot be built, parked or driven upon, except for emergency access and permitted temporary events.
  - iii. Open space may be provided above ground for a general or mixed use building type. Examples include an outside roof deck, roof top garden, pool area or similar outdoor common area.

(8) *Height.*

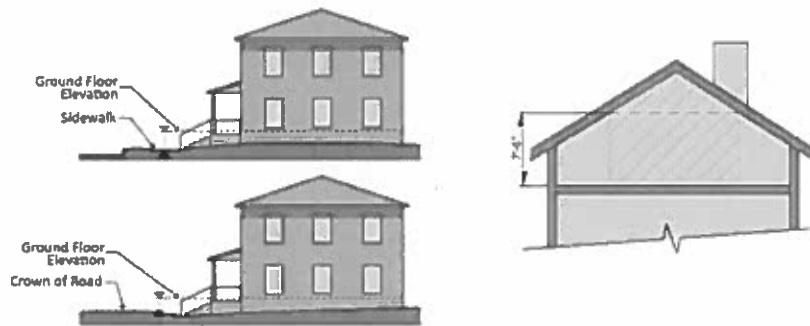


a. *Building height.*

- i. Building height is measured in both the number of stories and in feet to the top of the highest point of a flat roof or the midpoint of a pitched roof.
- ii. Average grade is determined by calculating the average of the highest and lowest elevation along natural or improved grade (whichever is more restrictive) along the front of the building parallel to the primary street setback line.
- iii. Where a lot slopes downward from the front property line, one (1) story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot.
- iv. An attic does not count as a story where fifty (50) percent or more of the attic floor area has a clear height of less than seven and one-half (7½) feet; measured from the finished floor to the finished ceiling.



- v. A basement with fifty (50) percent or more of its perimeter wall area surrounded by natural grade is not considered a story.
- b. *Ground floor elevation.* Ground floor elevation is measured from the average curb level of the adjoining street to the top of the finished ground floor.



- (9) *Height encroachments.* Any height encroachment not specifically listed is expressly prohibited except where the zoning administrator determines that the encroachment is similar to a permitted encroachment listed below.
- a. The maximum height limits of the district do not apply to spires, belfries, cupolas, domes not intended for human occupancy; monuments, water tanks, water towers or other similar structures which, by design or function, must exceed the established height limits.
  - b. The following accessory structures may exceed the established height limits, provided they do not exceed the maximum building height by more than twelve (12) feet:
    - i. Chimney, flue or vent stack;
    - ii. Deck, patio, shade structure;
    - iii. Flagpole;
    - iv. Garden, landscaping;
    - v. Parapet wall, limited to a height of four (4) feet;
    - vi. Rainwater collection or harvesting systems (rain barrels); and
    - vii. Sustainable energy systems, including but not limited to solar panels and wind energy generation systems that generate power primarily to be used on-site.
  - c. The following accessory structures may exceed the established height limits, provided they do not exceed the maximum building height by more than twelve (12) feet, do not occupy more than twenty-five (25) percent of the roof area, and are set back at least ten (10) feet from the edge of the roof:
    - i. Amateur communications tower;
    - ii. Cooling tower;
    - iii. Elevator penthouse or bulkhead;
    - iv. Greenhouse;
    - v. Mechanical equipment;
    - vi. Skylights;
    - vii. Elevator or stairway access to roof; and

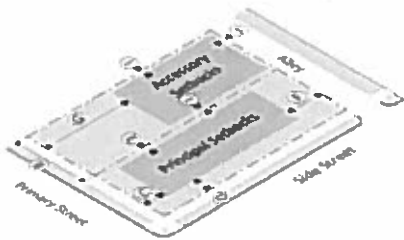
viii. Tank designed to hold liquids.

d. An accessory structure located on the roof must not be used for any purpose other than a use incidental to the principal use of the building.

(d) *[Reserved.]*

(e) *Detached house.*

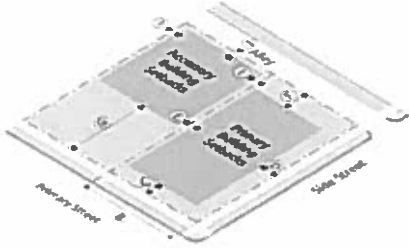
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■	MU-3
	MU-4
	MU-5

			
<b>(1) Lot Standards</b>		<b>(2) Building Placement</b>	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot Area (min/max)	3,000 sf/21,780 sf	Primary street (min/max)	5'/45'
B Lot width (min/max)	30'/110'	% of building in primary street BTZ	70%
Principal Building Setbacks		Open Space	
C Primary street (min)	10'	% of open area on the lot on average	25%
D Side street (min)	5'		
E Side, common lot line (min)	4'		
F Rear, common lot line/alley (min)	18'		
Accessory Building Setbacks			
G Primary street (min)	50'		

H Side street (min)	5'
I Side, common lot line (min)	3'
J Rear, common lot line (min)	3'
J Rear, alley (min)	4' or 18'
(3) Height	
Building Height	
Principal building (max)	3 stories
Accessory building (max)	*
* Shall not exceed the height of the principal building	

(f) Attached house.

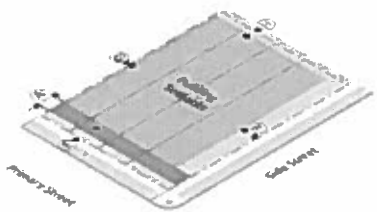
■	MU-1
■	MU-2
■	MU-3
■	MU-4
	MU-5

			
(1) Lot Standards		(2) Building Placement	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot Area (min/max)	7,500 sf/15,000 sf	A Primary street (min/max)	10'/45'

B Lot width (min/max)	60'/80'	B % of building in primary street BTZ	70%
Principal Building Setbacks		Open Space	
C Primary street (min)	10'	% of open area on the lot on average	25%
D Side street (min)	5'		
E Side, common lot line (min)	4'		
F Rear, common lot line/alley (min)	20'		
Accessory Building Setbacks			
G Primary street (min)	50'		
H Side street (min)	5'		
I Side, common lot line (min)	3'		
J Rear, common lot line (min)	3'		
J Rear, alley (min)	4' or 18'		
(3) Height			
Building Height			
Principal building (max)	3 stories		
Accessory building (max)	*		
* Shall not exceed the height of the principal building			

(g) *Townhouse building.*

	MU-1
■	MU-2
■	MU-3
■	MU-4
■	MU-5

			
<b>(1) Lot Standards</b>		<b>(2) Building Placement</b>	
<b>Lot Dimensions</b>		<b>Build-to Zone (BTZ)</b>	
<b>A Site Area (min)</b>	NA	<b>A Primary street (min/max)</b>	5'/25'
<b>B Site width (min)</b>	NA	<b>B % of building in primary street BTZ (min)</b>	70%
<b>Building Setbacks</b>		<b>Open Space</b>	
<b>E Primary street (min)</b>	5'	<b>% of open area on the lot on average</b>	15%
<b>F Side street (min)</b>	5'		
<b>G Side, common lot line (min)</b>	0' or 5'		
<b>H Rear, common lot line (min)</b>	15'		
<b>H Rear alley (min)</b>	4' or 18'		
<b>(3) Height</b>			
<b>Building Height</b>			
<b>Principal building (max)</b>	3 stories		
<b>Accessory building (max)</b>	*		
* Shall not exceed the height of the principal building			

(h) *Apartment building.*

	MU-1
	MU-2

■	MU-3
■	MU-4
■	MU-5

<b>(1) Lot Standards</b>		<b>(2) Building Placement</b>	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot width (min)	20'	A Primary street (min)	0'
Building Setbacks		B Building in primary street BTZ (min)	NA
B Primary street (min)	0'	C Side street (min)	0'
C Side street (min)	0'	D % of building in side street BTZ (min)	NA
D Side, common lot line (min)	0'	Parking Setbacks	
E Rear, common lot line/alley (min)	0'	Primary street (min)	20'
		Side street (min)	5'
		Side, common lot line (min)	0'
<b>(3) Height</b>		Rear, common lot line (min)	0'
Building Height		Open Space	
Principal building (max)		% of open area on the lot on average	10%
MU-4	4 stories		
MU-5	6 stories		

(i) General building.

	MU-1
	MU-2
■	MU-3
■	MU-4
■	MU-5

<b>(1) Lot Standards</b>		<b>(2) Building Placement</b>	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot width (min)	20'	A Primary street (min)	0'
Building Setbacks		B % of building in primary street BTZ (min)	NA
B Primary street (min)	0'	C Side street (min)	0'
C Side street (min)	0'	D % of building in side street BTZ (min)	NA
D Side, common lot line (min)	0'	Parking Setbacks	
E Rear, common lot line/alley (min)	0'	Primary street (min)	20'
		Side street (min)	5'
		Side, common lot line (min)	0'
<b>(3) Height</b>		Rear, common lot line (min)	0'
Building Height		Open Space	
Principal building (max)		% of open area on the lot on average	10%



MU-4	4 stories	
MU-5	6 stories	

(j) Mixed use building.

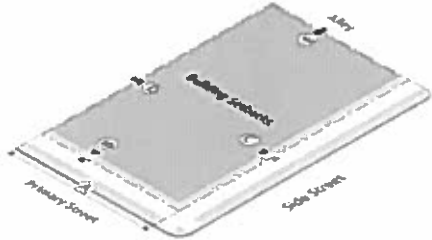
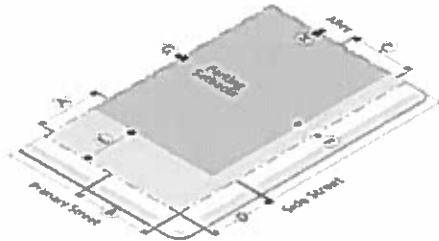
	MU-1
	MU-2
	MU-3
■	MU-4
■	MU-5

(1) Lot Standards		(2) Building Placement	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot width (min)	20'	A Primary street (min)	0'
Building Setbacks		B % of building in primary street BTZ (min)	NA
B Primary street (min)	0'	C Side street (min)	0'
C Side street (min)	0'	D % of building in side street BTZ (min)	NA
D Side, common lot line (min)	0'	Parking Setbacks	
E Rear, common lot line/alley (min)	0'	E Primary street (min)	20'
		F Side street (min)	5'
		G Side, common lot line (min)	0'

(3) Height	H Rear, common lot line (min)	0'
Building Height	Open Space	
Principal building (max)	% of open area on the lot on average	10%
MU-4	4 stories	
MU-5	6 stories	

(k) Civic building.

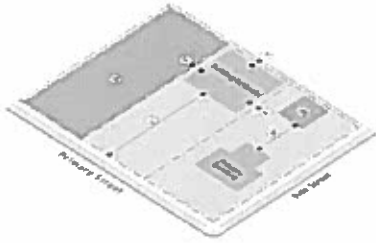
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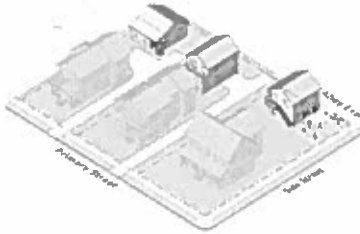
			
(1) Lot Standards		(2) Building Placement	
Lot Dimensions		Build-to Zone (BTZ)	
A Lot width (min/max)	NA	A Primary street (min)	0'
Building Setbacks		B % of building in primary street BTZ (min)	NA
B Primary street (min)	0'	C Side street (min)	0'
C Side street (min)	0'	D % of building in side street BTZ (min)	NA
D Side, common lot line (min)	0'	Parking Setbacks	

E Rear, common lot line/alley (min)	0'	E Primary street (min)	20'
		F Side street (min)	5'
		G Side, common lot line (min)	0'
(3) Height		H Rear, common lot line (min)	0'
Building Height		Open Space	
Principal building (max)		% of open area on the lot on average	10%
MU-1, MU-2	3 stories		
MU-3, MU-4	4 stories		
MU-5	6 stories		

(l) Accessory apartment.

■	MU-1
■	MU-2
■	MU-3
■	MU-4
	MU-5

	
(1) Lot Standards	
Lot Dimensions	
A Dwelling units per lot (max)	2

B Building footprint (min)	200 sf	
Building Setbacks		
C Primary street (min)	50'	
D Side street (min)	10'	
E Side, common lot line (min)	5'	
F Rear, common lot line/alley (min)	3'	
G Rear, alley (min)	4' of 18'	
H Building separation(min)	10'*	
		* Buildings connected by a single breezeway are deemed to be separate buildings.
(2) Access		
Vehicular		
From Alley or from street when no alley is present		
		

(m) The board of supervisors may approve alternative development standards as part of a zoning map amendment.

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15)

Sec. 23-6.28.5. - Uses.

(a) *Permitted uses.*

- (1) This section establishes the uses allowed in each sub-district. A lot or building shall be occupied with only the land uses allowed in subsection 23-6.28.5(c).
- (2) Any one or more uses identified in subsection 23-6.28.5(c) as being allowed within a specific sub-district may be established on any parcel within that sub-district, subject to the use table, and in compliance with all applicable requirements of this district.

(b) *Use standards.*

- (1) *Ground story uses in all districts.*

- a. Allowed ground story uses may extend into upper stories without regard for the upper story allowed uses listed on the table below.
- (2) *Civic buildings.*

- a. Only public/institutional uses listed on the use table below are allowed in a civic building type.

(c) *Use table.*

	MU-1	MU-2	MU-3	MU-4, MU-5	
	All Floors	All Floors	All Floors	Ground Story	Upper Stories
Accessory uses as permitted by Article 5, Division 2 of this chapter	P	P	P	P	P
<b>RESIDENTIAL</b>					
Dwelling, detached	P	P	P	—	—
Dwelling, attached	P	P	P	P	P
Dwelling, townhouse	—	P	P	P	P
Dwelling, apartment	—	—	P	P	P
Home occupation in accordance with division 23-5.4	P	P	P	P	P
Home enterprise in accordance with division 23-5.4A	S	S	P	P	P
<b>GROUP LIVING</b>					
Assisted living facility	S	S	S	P	P
Convent, monastery, seminary and nunnery	—	—	S	P	P
Dormitory, fraternity or sorority house, rooming/boardinghouse or other residence hall	—	—	S	P	P
Nursing home	—	—	S	P	P
<b>PUBLIC/INSTITUTIONAL</b>					
Civic, social or fraternal facility	S	S	S	P	P
Civic and sports arena	—	—	—	S	S
College or university	—	—	S	S	S

Community center	P	P	P	P	P
Cultural center, museum or similar facility	—	—	S	P	P
Place of worship	S	S	P	P	P
Public school	S	S	P	P	P
Private school	S	S	P	P	P
Public facility/use	P	P	P	P	P
Quasi-public park, playground, community center, athletic fields and related facilities	P	P	P	P	—
Public utility, light	S	S	S	S	—
Religious retreat facility	—	—	—	P	P
Telecommunications tower	S	S	S	S	S

#### RETAIL SALES, SERVICE, ENTERTAINMENT

Adult day care center	S	S	P	P	P
Amusement arcade	—	—	—	P	P
Animal shelter	—	—	—	P	P
Antique shop	—	—	P	P	P
Art and craft studio	—	—	P	P	P
Auction establishment	—	—	—	P	P
Billiard, pool hall	—	—	—	P	P
Child care center	S	S	P	P	P
Convenience store	—	—	P	P	P
Eating establishment	—	—	P	P	P
Eating establishment, carry out/fast food	—	—	P	P	P
Equestrian event facility	S	S	S	S	—
Financial institution	—	—	P	P	P

Funeral home	—	—	S	S	—
Garden center	—	S	P	P	P
Hospital	—	—	—	P	P
Indoor, commercial recreation facility	—	—	S	P	P
Live entertainment, indoor	—	—	P	P	P
Live entertainment, outdoor	—	—	S	S	S
Medical care facility	—	—	S	P	P
Open air market	—	S	S	P	—
Personal service establishment	—	—	P	P	P
Retail sales establishment	—	—	P	P	P
Theater	—	—	P	P	P
Veterinary hospital/service	—	—	S	P	P
VISITOR ACCOMMODATIONS					
Bed and breakfast I	S	S	P	P	P
Bed and breakfast II	—	S	S	P	P
Hotel, motel	—	—	S	P	P
OUTDOOR RECREATION					
Country club	S	P	P	—	—
Golf course and clubhouse	P	P	P	—	—
Miniature golf	—	S	P	P	—
Outdoor sports and recreation, commercial	S	S	S	P	—
GENERAL BUSINESS					
Business service or supply establishment	—	—	—	P	P
Contractors office and shop	—	—	—	P	P

Industrial/flex	—	—	—	P	P
Micro-brewery, winery, cidery, distillery	—	—	P	P	P
Mini-warehousing establishment	—	—	—	—	—
Office	—	—	P	P	P
Repair service establishment	—	—	P	P	P
Scientific research and development establishment	—	—	—	P	P
Warehouse	—	—	—	S	S
Wholesale trade establishment	—	—	—	P	P
VEHICLE ACCOMMODATIONS					
Bus station/depot/terminal	—	—	—	P	—
Fuel dispensing service	—	—	S	P	—
Helistop	—	—	—	S	S
Parking, commercial off-street surface parking	—	—	—	P	—
Parking, structure off-street facility	—	—	—	P	P
Railroad station/depot/terminal	—	—	—	P	
Vehicle service establishment, light	—	—	—	P	—
Vehicle service establishment, major	—	—	—	S	—
Vehicle sale, rental and ancillary service establishment, small scale	—	—	—	P	—
Vehicle sale, rental and ancillary service establishment, large scale	—	—	—	P	—

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15; Ord. No. 23-174, § 1, 11-28-17)

Sec. 23-6.28.6. - Parking.

- (a) *Parking in the MU district.* The requirements of article 5, division 9, Off-street parking and the design standards manual shall apply in the mixed use (MU) district, except as otherwise specifically modified in this section.
- (b) *Parking credits.*



- (1) *Credit for on-street parking.* One (1) legal on-street parking space may be substituted for every required parking space, provided the street space is located on a public or private right-of-way immediately abutting the subject property.
- (2) *Proximity to transit.* A fifteen (15) percent reduction in the number of required parking spaces is allowed for uses with a main entrance within a walking distance of two thousand six hundred forty (2,640) feet of an operating transit stop.
- (3) *Valet parking.* Valet parking may be permitted where all of the following standards have been met:
  - a. An attendant is provided to park vehicles during all business hours of the use utilizing the valet parking.
  - b. An equivalent number of valet spaces are available to replace the number required on-site parking spaces.
  - c. Valet spaces do not require individual striping, and may take into account the mass parking of vehicles.
- (c) *Reserved parking.* Parking spaces may be reserved for a specific tenant or unit, provided that the following standards are not exceeded:
  - (1) *Residential.*
    - a. One (1) space per efficiency or one-bedroom multi-living dwelling unit.
    - b. Two (2) spaces per two-bedroom or greater multi-living dwelling unit.
  - (2) *Nonresidential.* No more than one-third ( 1/3 ) of the total provided spaces may be reserved.
- (d) *Parking spaces required.* The following table defines the minimum number of parking spaces required for each use in the use table.

Land Use	
Residential	
Dwelling, single-family and two-family	2 per unit
Dwelling, multiple-family	
0—1 bedroom	.75 per unit + 1 visitor per 5 units
2 bedrooms	1.5 per unit + 1 visitor per 5 units
3+ bedrooms	2.0 per unit + 1 visitor per 5 units
Group Living	
Assisted living/nursing home	1 space per employee + 1 space per 4 beds
All group living	1 per bedroom
Public/Institutional	
Place of worship	1 per 3 seats main assembly room
All other public/institutional	1 per 300 sf of gross floor area
Retail Sales, Service, Entertainment	
Child care center	1 per employee + 1 per 12 children

All other retail sales, service, entertainment	1 space for the first 1,000 sf + 1 space of each additional 750 sf
Visitor Accommodations	
All visitor accommodations	1 per guest room
General Business	
All general business	1 space for each 500 square feet of gross floor area

(e) The board of supervisors may approve alternative parking standards as part of a zoning map amendment.

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15)

Sec. 23-6.28.7. - Streets and blocks.

(a) *Streets and blocks in the MU district.* The requirements of the design standards manual apply in the mixed use (MU) district, as specifically modified in this section. Sidewalks, streets, street trees and street lights must be installed and constructed for both new streets and existing streetscapes.



(b) *Blocks.*

(1) *Applicability.* The block length and perimeter standards apply to preliminary plats, final plats and site plans.

(2) *Block standards in the MU-1, MU-2, MU-3 district.*

- a. Residential blocks must have sufficient width to provide for two (2) tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets where across from a public park or open space, to allow for unusual topographical conditions, or when adjacent to the outer perimeter of a subdivision.
- b. The maximum block perimeter shall be four thousand four hundred (4,400) feet.
- c. The maximum block length shall be one thousand five hundred (1,500) feet.
- d. The maximum block length for a dead end street shall be three hundred (300) feet.

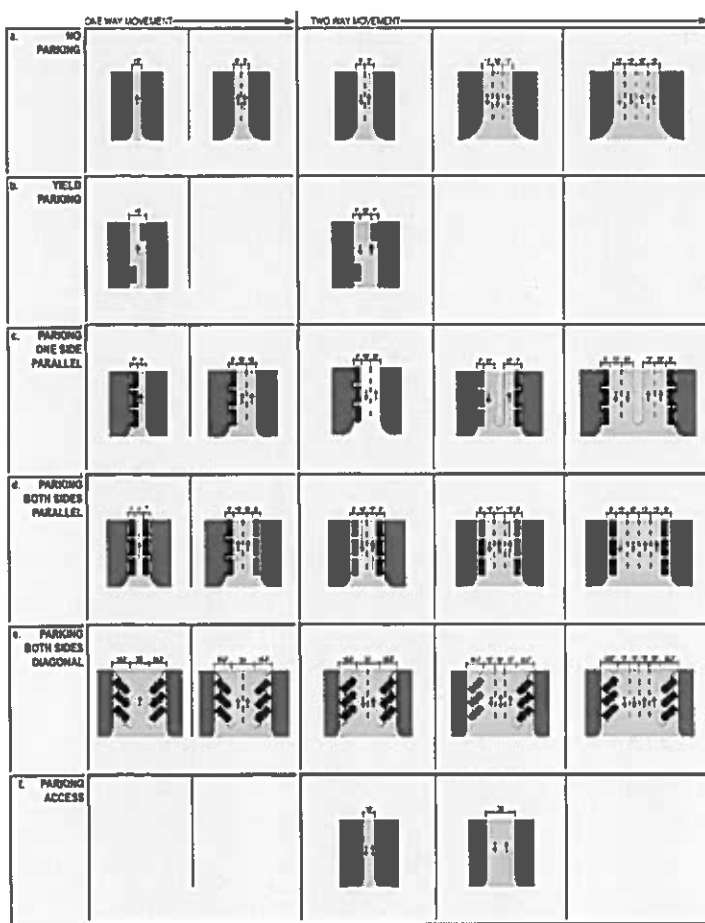
(3) *Block standards in the MU-4, MU-5 district.*

- a. The maximum block perimeter shall be two thousand four hundred (2,400) feet.
- b. The maximum block length shall be seven hundred (700) feet.
- c. The maximum block length for a dead end street shall be three hundred (300) feet.

(4) *Block measurement.*

- a. A block is bounded by a street (not including an alley) that meets the requirements of this section.
- b. Block perimeter is measured along the centerline of intersecting streets that encompass the block.
- c. Block length is measured from centerline to centerline of intersecting streets.
- d. The maximum block length or perimeter may be extended in the event that steep slopes in excess of twenty-five (25) percent, freeways, waterways, railroad lines, preexisting development, tree conservation areas, stream buffers, cemeteries, open space, or easements make the maximum block length or perimeter unfeasible.
- e. The maximum block length and perimeter may be extended by twenty-five (25) percent, if the block includes a pedestrian passage that meets the requirements of this section.
- f. A block may be broken by a civic building, public park, or open lot, provided the lot is at least fifty (50) feet wide and provides a pedestrian passage meeting the requirements this section.

(c) *Street types.* This section provides general guidelines for the construction of new streets in the MU district and is intended to provide a catalog of minimum dimensions for travel lane and on-street parking widths subject to review and approval during the site plan review process for use on private streets.



(d) The board of supervisors may approve alternative streets and blocks standards as part of a zoning map amendment.

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15)

The procedures of article 4, Development review procedures, shall apply in the mixed use (MU) district, except as specifically modified in this section.

- (a) *Special uses.* Division 5, Special uses, shall apply within the MU districts, except as specifically modified below.
  - (1) Height above the district maximum is permitted with special use approval. Where height is proposed above the district maximum, appropriate transitions to nearby development, including stepping down height near adjacent properties, methods to preserve privacy such as limiting balconies, and other design techniques to minimize the impact on the surrounding area shall be considered, and appropriate conditions imposed, where necessary.
- (b) *Zoning map amendments.* Division 6, Zoning map amendments (rezoning) shall apply to MU districts, except as specifically modified below.
  - (1) A generalized development plan (GDP) shall be prepared by a licensed architect, engineer or surveyor. The generalized development plan shall include the following information:
    - a. A title block denoting the type of application, name of project, tax map reference and street address;
    - b. The name, address and phone number of the applicant;
    - c. The name, address, phone number, signature and registration number of the plan preparer, and the preparation date of the plan;
    - d. Vicinity map, 1" = 2,000', a north arrow scale, and scale graphic;
    - e. The identification of and distance to all major intersections within one-half (½) mile of the proposed development;
    - f. The boundary of the entire parcel with courses and distances, with existing or proposed parcel lines, easements or right-of-way within the subject property;
    - g. The present zoning, principal use, and boundaries as described in article 6 of this chapter of any overlay zoning districts of the subject parcel and all contiguous properties;
    - h. A table (with computations) estimating the lot coverage ratio and impervious surface ratio, the types of proposed uses, the number of residential dwelling units and densities, and the expected square footage of non-residential uses;
    - i. The boundaries of any water bodies, USGS perennial streams, floodplain, resource protection areas, watershed, wetlands (if any);
    - j. The location and boundaries of all sub-districts;
    - k. The conceptual street network, including all points of vehicular and pedestrian access from off-site properties;
    - l. Points of connection to public water and sewer;
    - m. Topographic contour lines at ten-foot intervals using United States Geologic Survey 7.5 minute quadrangles interpolated to two-foot contours as necessary, for the existing site;
    - n. Minimum acreages or statement regarding any common open spaces, recreation areas and recreation facilities, or amenities;
    - o. Identification of the projected location and estimated sequence of development of each phase of the development;
    - p. Any known historic building or features or any known places of burial;
    - q. A general description of the methods proposed to control erosion, sedimentation and stormwater runoff; and
    - r. Signature and seal of professional person certifying the plan.
  - (2) The generalized development plan (GDP), proffer statement, and/or proffered exhibit(s) shall demonstrate how the development will achieve the stated purpose and intent of the mixed use district (section 23-6.28.1).
  - (3) The development shall be phased and located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses

proposed; provided however, that the applicant shall make provision for such facilities or utilities which are planned but not presently available.

(Ord. No. 23-150, 9-25-12; Ord. No. 23-160, 1-13-15)

## DIVISION 6. HIGHWAY CORRIDOR OVERLAY DISTRICT

### Footnotes:

— (20) —

**Editor's note**— Ord. No. 23-128, adopted November 12, 2008, amended division 6 in its entirety to read as herein set out. Formerly, division 6 pertained to similar subject matter, and derived from Ord. No. 23-75, adopted January 20, 1998, and Ord. No. 23-126, adopted September 23, 2008.

### Sec. 23-7.6.1. - Purpose and intent.

This district is created in furtherance of the purposes set forth in Sections 15.2-2200, 15.2-2283 and 15.2-2284 of the Code of Virginia, to protect the health, safety, and general welfare of the public.

- (1) Encouraging and articulating positive visual experience along the county's major existing and proposed highway corridors;
- (2) Providing for the continued safe and efficient use of these highway corridors;
- (3) Minimizing intersections and individual site access points along these corridors;
- (4) Discouraging indiscriminate clearing, excessive grading, and clear cutting along these corridors;
- (5) Minimizing cut and fill operations by placing emphasis on the retention of natural topography of these corridors; and
- (6) Protecting existing natural vegetation and wildlife habitats along these corridors;
- (7) Maintaining natural beauty and scenic, cultural, and historic character of these corridors, particularly distinctive views, vistas, and visual continuity;
- (8) Promoting a bicycle and pedestrian friendly environment complete with vegetation, sidewalks and trails, seating areas, public art and water features, bike racks, and safe pedestrian crossings.

(Ord. No. 23-128, 11-12-08)

### Sec. 23-7.6.2. - Establishment of districts.

The highway corridor overlay district (HCOD) shall be designated by the board of supervisors by ordinance and will overlay all other zoning districts where it is applied so that any parcel of land lying in an HCOD shall also lie within one (1) or more other land use districts provided for by this chapter. The regulations and other requirements of both the underlying districts and the HCOD shall apply, provided that when the regulations applicable to the HCOD conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

(Ord. No. 23-128, 11-12-08)

### Sec. 23-7.6.3. - District boundaries.

HCOD boundaries shall be as designated on the official zoning map, as ordained by ordinance establishing the boundaries of the overlay district, pursuant to article 4, division 6 of this chapter. The district boundaries shall be described as follows:

- (1) Length of the district shall be established by fixing points of beginning and end along the centerline of a street or highway.
- (2) Width shall be established by designation of the distance on one (1) or both sides of a street or highway right-of-way to which the overlay district shall extend, as described in section 23-7.6.4.

(Ord. No. 23-128, 11-12-08)

Sec. 23-7.6.4. - Classifications.

The following classes of HCOD, as established by the board of county supervisors, shall determine the regulations and requirements applicable to each designated section of an HCOD:

- (1) *Primary development HCOD.* The primary development HCOD designation was established in areas where existing and future development demands are expected to be high as the county grows. Due to existing and future growth potential within these areas, primary HCOD specific design guidelines have been established to enhance the design of development on a consistent basis, be less rural in nature and promote a more urbanized, development intensive character. Generally the primary HCOD has been established within the boundary of the primary development boundary of the county.
- (2) *Rural development HCOD.* The rural development HCOD designation was established in areas where existing and future development demands are expected to be low as the county grows. These are areas that are more rural in character and as such design guidelines have been developed to complement and preserve that character in the rural HCOD. Generally the rural HCOD has been established within the agricultural/rural districts of the county.

(Ord. No. 23-128, 11-12-08)

Sec. 23-7.6.5. - Designated districts and classifications.

The arterial roads to which the HCODs and the primary development and rural development classifications are assigned shall be those listed below, which are to be shown by overlay on the zoning map:

- (1) *Plank Road, Route 3.* All land within four hundred (400) feet of either side of the future right-of-way of Plank Road, Route 3, from the City of Fredericksburg line, to the Orange County line shall be within the HCOD. That area classified as primary development shall consist of all land within four hundred (400) feet of either side of the right-of-way of Plank Road, Route 3, (i) from the City of Fredericksburg line, to five hundred (500) feet west of its intersection with the western right-of-way line of Andora Drive, Route 626, (ii) from five hundred (500) feet east of its intersection with the eastern right-of-way line of Brock Road, Route 613, to five hundred (500) feet west of its intersection with the western right-of-way line of Brock Road, Route 613, and (iii) from five hundred (500) feet east of its intersection with the eastern right-of-way line of Orange Plank Road, Route 621, to five hundred (500) feet west of its intersection with the western right-of-way line of Orange Plank road, Route 621. That area classified as rural development shall consist of all land within four hundred (400) feet of either side of the right-of-way of Plank Road, Route 3, from five hundred (500) feet west of its intersection with the western right-of-way line of Andora Drive, Route 626 to the Orange County line, less and except those two (2) areas classified as primary development in the immediately preceding sentence.
- (2) *Courthouse Road, Route 208.* All land within four hundred (400) feet of either side of the future right-of-way of Courthouse Road, Route 208, beginning at its intersection with the western right of way line of Jefferson Davis Hwy, Route 1, to its intersection with the eastern right-of-way line of Wild Turkey Drive, Route 1401, shall be within the HCOD. That area classified as primary development shall consist of all land within four hundred (400) feet of either side of the right-of-way of Courthouse Road, Route 208, beginning at its intersection with the western right of way line of Jefferson Davis Hwy, Route 1 extending southward to five hundred (500) feet west of its intersection with the western right-of-way line of Smith Station Road, Route 628. That area classified as rural development HCOD shall consist of all land within four hundred (400) feet of

either side of the right-of-way of Courthouse Road, Route 208, from five hundred (500) feet west of its intersection with the western right-of-way line of Smith Station Road, Route 628, extending southward to five hundred (500) feet south of its intersection with the eastern right-of-way line of Wild Turkey Drive, Route 1401.

- (3) *U.S. Route 1.* All land within four hundred (400) feet of either side of the future right-of-way line of U.S. Route 1, beginning at the Fredericksburg City Line (FCL) extending southward to where it crosses the Ni River shall be within the Primary Development HCOD.
- (4) *U.S. Route 1 Business.* All land within four hundred (400) feet of either side of the future right-of-way line of U.S. Business 1, beginning at the eastern right-of-way line of its intersection with the north-south future right-of-way line at U.S. 1 to the Fredericksburg City Line (FCL) shall be in the HCOD and classified as primary development HCOD.
- (5) *Route 620, Harrison Road.* All land within four hundred (400) feet of either side of the future right-of-way line beginning at its intersection with Route 3, Plank Road and extending to its intersection with Route 1 Business, Lafayette Blvd. shall be within the primary HCOD.
- (6) *Route 639, Leavells Road.* All land within four hundred (400) feet of either side of the future right-of-way line beginning with its intersection at Harrison Road and extending to its intersection with Route 208, Courthouse Road shall be within the primary HCOD.
- (7) *Route 639, Salem Church Road.* All land within four hundred (400) feet of either side of the future right-of-way line beginning at its intersection with Route 3, Plank Road, and extending southward to its intersection with Harrison Road shall be within the primary HCOD.
- (8) *Hood Drive.* All land within four hundred (400) feet of either side of the future right of way line extending from its intersection with US Route 1, Jefferson Davis Highway and ending at its intersection with Route 208, Courthouse Road, shall be within the primary HCOD.

(Ord. No. 23-128, 11-12-08; Ord. No. 23-145, 12-13-11)

#### Sec. 23-7.6.6. - Permitted uses.

Permitted uses in HCODs are uses permitted by right in the underlying zoning districts unless otherwise specifically restricted by a rezoning proffer or SUP condition or made a special use under section 23-7.6.7.

(Ord. No. 23-128, 11-12-08)

#### Sec. 23-7.6.7. - Reserved.

**Editor's note**— Ord. No. 23-152, adopted January 8, 2013, repealed the former section 23-7.6.7 in its entirety, which pertained to special uses, and derived from Ord. No. 23-128, adopted November 12, 2008.

#### Sec. 23-7.6.8. - Development standards.

All uses in an HCOD shall be subject to the use limitations and development standards set forth in the underlying zoning district and, in addition, office and commercial uses shall be subject to the enhanced site development and building design standards as established in article 8, highway corridor overlay district (HCOD) site and building design standards, of the design standards manual (the "highway corridor design guidelines").

(Ord. No. 23-128, 11-12-08)



Sec. 23-7.6.9. - Signs.

Notwithstanding the requirements of article 5, division 8 of this chapter, all development proposed in the HCOD shall be subject to the following additional requirements pertaining to signage:

- (1) A comprehensive uniform sign plan shall be submitted to the county for approval in conjunction with the site plan submittal. All signs for a proposed development shall be of uniform size, color and design. The plan shall show the size, location, and uniform design for all signage proposed for the development.
- (2) No sign, roof shall be permitted above the highest roof line.
- (3) Sign, building-mounted—One-story building. Sign, building-mounted for tenants with outside entrance shall not exceed one and one-half (1½) square feet of sign area per horizontal linear foot of each exterior wall or portion of an exterior wall specifically occupied by each business or tenant for each of the first one hundred (100) linear feet of exterior wall plus one (1) square foot of sign area for each horizontal linear foot over one hundred (100) linear feet of exterior wall.

For buildings located within the first two hundred (200) feet of either side of the future right-of-way line in a designated Highway Corridor Overlay District, the total sign, building-mounted area for any exterior wall shall not exceed sixty-four (64) square feet per tenant in the rural development HCOD and eighty (80) square feet per tenant in the primary development HCOD. For buildings located within the second two hundred (200) feet either side of the future right-of-way line in a designated Highway Corridor Overlay District, the total sign, building-mounted area for any exterior wall shall not exceed eighty (80) square feet per tenant in the rural development HCOD and one hundred sixty (160) square feet per tenant in the primary development HCOD.

a. No transfer of allowable sign area shall be made from one exterior wall to another exterior wall.

- (4) Sign, building-mounted—Multi-story building. Sign, building-mounted for ground floor tenants with outside entrance shall not exceed one and one-half (1½) square feet of sign area per horizontal linear foot of each exterior wall or portion of an exterior wall specifically occupied by each business or tenant for each of the first one hundred (100) linear feet of exterior wall plus one (1) square foot of sign area for each horizontal linear foot over one hundred (100) linear feet of exterior wall. All such signs with the exception of allowed sign, pinnacle shall be kept within a height of twenty (20) feet above the sidewalk or ground level.

For buildings located within the first two hundred (200) feet of either side of the future right-of-way line in a designated Highway Corridor Overlay District, the total sign, building-mounted area for any exterior wall shall not exceed sixty-four (64) square feet per tenant in the rural development HCOD and eighty (80) square feet per tenant in the primary development HCOD. For buildings located within the second two hundred (200) feet of either side of the future right-of-way line in a designated Highway Corridor Overlay District, the total sign, building-mounted area for any exterior wall shall not exceed eighty (80) square feet per tenant in the rural development HCOD and one hundred sixty (160) square feet per tenant in the primary development HCOD.

Sign, pinnacle shall be permitted on exterior walls. Sign, pinnacle shall not exceed one and one-half (1½) square feet per horizontal linear foot of each exterior wall or portion of an exterior wall specifically occupied by each business or tenant plus one (1) square foot of sign area for each horizontal linear foot over one hundred (100) linear feet of exterior wall. A sign, pinnacle meant to identify a building name not affiliated with a particular tenant shall not exceed one and one-half (1½) square feet per horizontal linear foot of each exterior wall plus one (1) square foot of sign area for each horizontal linear foot over one hundred (100) linear feet of exterior wall. However, in all cases no sign, pinnacle shall exceed one hundred eighty (180) square feet.

a. No transfer of allowable sign area shall be made from one exterior wall to another exterior wall.

- (5) Individual commercial uses not located in a shopping center, office building or complex shall be subject to the following additional requirements regarding sign, free-standing sign, monument:
  - a. The area for any sign, free-standing sign, monument shall not exceed sixty-four (64) square feet in the rural development HCOD and one hundred (100) square feet in the primary development HCOD;
  - b. The maximum height for sign, free-standing sign, monument shall not exceed eight (8) feet in the rural development HCOD and sixteen (16) feet in the primary development HCOD.
- (6) Shopping centers, and office buildings or complexes shall be subject to the following additional requirements regarding free-standing sign, monument:
  - a. The total area for sign, free-standing sign, monument shall not exceed eighty (80) square feet in the rural development HCOD and one hundred twenty (120) square feet in the primary development HCOD;
  - b. The maximum height for sign, free standing sign, monument shall not exceed sixteen (16) feet or the height of the principal building, whichever is less.

(Ord. No. 23-128, 11-12-08; Ord. No. 23-135, 12-8-09; Ord. No. 23-138, 6-22-10; Ord. No. 23-144, 11-10-11; Ord. No. 23-146, 1-10-12; Ord. No. 23-154, 2-26-13)

#### Sec. 23-7.6.10. - Waivers and modifications.

The provisions of this division and the highway corridor design guidelines may be waived or modified by the board of supervisors as a special use or in connection with the approval of a special use or rezoning. Waivers or modifications of the highway corridor design guidelines also may be made pursuant to article 9 of the design standards manual.

(Ord. No. 23-128, 11-12-08)

#### Sec. 23-7.6.11. - Transitional rules.

##### (1) *Existing lawful uses.*

- (a) When a lot is used lawfully on the effective date of this division and section 23-7.6.6 of this division classifies such use as a "permitted use" in the zoning district in which it is located, such use is hereby deemed a lawful permitted use for the purposes of this division.
- (b) When a lot is used lawfully on the effective date of this division, and section 23-7.6.7 of this division classifies such use as a "special use" in the zoning district in which it is located, such use is hereby deemed a lawful special use for the purposes of this division. All special use approvals granted by the board of supervisors prior to the effective date of this division shall remain in full force and effect, and the recipient of the special use approval may proceed to develop the property in accordance with the plans previously approved by the board. If the approval of such special use was subject to one or more conditions, then those conditions shall continue in full force and effect unless a new special use approval is obtained in accordance with article 4, division 5 of this chapter. However, if the recipient of the special use approval has failed to commence development before the special use approval expires, or if no expiration is specified within one (1) year of the adoption of this division, then the provisions of this division shall govern. Any new owner or occupant of a lawful special use may continue operation of that use without needing a new special use approval pursuant to this division, provided that operation of the lawful special use is continued in the same manner as it existed on the effective date of this division.
- (c) Any addition to or expansion of a lawful special use, as defined in subsection (1)(b) above, shall require new special use approval in accordance with the procedures and standards set forth in article 4, division 5 of this chapter for new special uses.

- (2) *Uses rendered nonconforming.* When a lot is used for a purpose which was a lawful use before the effective date of this division and this division no longer classifies such use as either a permitted use or special use in the zoning district in which it is used, such use is hereby deemed a nonconforming use and shall be controlled by the provisions of article 8 of this chapter.
- (3) *Buildings, structures, and lots rendered nonconforming.* Where any building, structure, or lot which existed on the effective date of this division does not meet all standards set forth in this division, such building, structure, or lot is hereby deemed nonconforming and shall be controlled by the provisions of article 8 of this chapter; provided, however, that alteration or enlargement of nonconforming buildings or structures shall be governed by section 8-3.1.U of the design standards manual.
- (4) *Previously issued building permits.* When a building permit for a building or structure has been lawfully issued prior to the effective date of this division and construction has begun within six (6) months of the issuance of such permit and is being diligently pursued to completion, the building or structure may be completed in accordance with the plans on the basis of which the building permit was issued and may, upon completion, be occupied under a certificate of occupancy for the use originally intended and be classified as nonconforming.
- (5) *Previously granted zoning certificate.* If a zoning certificate has been issued by the county prior to the effective date of this division but no building permit has been issued, then the provisions of this division shall govern.
- (6) *Previously granted special use permits.* All special use permits granted prior to the effective date of this division, and any conditions attached thereto shall remain in full force and effect, and the recipient of the special use permits may proceed to develop the property in accordance with the plans previously approved provided that such plans conform in all other respects to county rules and regulations. However, if the recipient of such special use permits has failed to act on the special use permits before it expires the provisions of this division shall govern.
- (7) *Previously approved preliminary plats.* Where a preliminary plat has been approved prior to the effective date of this division, the applicant shall be entitled to develop the property according to the approved preliminary plat provided that:
  - (a) A record plat for a section of the subdivision shown on the preliminary plat must be recorded within twelve (12) months of the date of preliminary plat approval.
  - (b) Record plats for all sections of the subdivision shown on the preliminary plat must be recorded within three (3) years of the date of recordation of the first section for subdivisions of less than three hundred (300) lots, or within five (5) years of the date of recordation of the first section for subdivisions of three hundred (300) or more lots.
  - (c) The subdivision complies with all the requirements of this chapter except for the requirements of this division.
  - (d) For the purposes of this subsection, a "section" shall contain at least thirty (30) lots or fifty (50) percent of the total lots in the subdivision, whichever is less.
- (8) *Previously filed site plans.* Where a bona fide site plan has been filed in accordance with division 11, article 4 of this chapter prior to the effective date of this division, the applicant shall be entitled to develop the property in accordance with the approved site plan provided that:
  - (a) The site plan is approved within sixty (60) days of the effective date of this division;
  - (b) A building permit for building, or buildings, containing at least fifty (50) percent of the total gross floor area shown on the site plan is issued within twelve (12) months of the date of site plan approval or within twelve (12) months of the effective date of this division whichever is later, and construction of such building, or building is completed within the period of validity of such building permit.
  - (c) The site plan complies with all the requirements of this chapter except for the requirements of this division.
- (9) *Revisions to grandfathered plats and plans.* Revisions to grandfathered preliminary subdivision plats or site plans

made during the period of validity of such plats or plans will be grandfathered provided the revisions do not increase any conformities. Such revisions, however, will not extend the due diligence requirements.

(Ord. No. 23-128, 11-12-08; Ord. No. 23-146, 1-10-12)

Sec. 23-7.6.12. - Enforcement.

The planning director shall have the authority and responsibility to review applications and plans submitted to determine if the submittal is in compliance with the design standards contained in the highway corridor commercial and industrial design guidelines. To allow for a design review to occur:

- (1) Commercial, and office developments located within the designated HCOD areas will be required to submit complete building elevations, landscape, pedestrian circulation plans, and lighting plans for enhanced design standard compliance review.
- (2) Development proposals located within designated highway corridor overlay districts must comply with the ordinance language herein as well as the generalized development requirements located in sections 8-1, 8-2, and 8-3 of the Spotsylvania County design standards manual entitled highway corridor overlay district (HCOD) site and building design guidelines.

(Ord. No. 23-128, 11-12-08)

Sec. 23-7.6.13. - Effective date.

This division shall be effective as of January 20, 1998.

(Ord. No. 23-128, 11-12-08)



**DRAFT PROFFER STATEMENT**

**Applicant:** Palmers Creek, LLC

**Owners:** Palmers Creek, LLC and Massaponax Land Company, L.L.C.

**Property:** Tax Map Parcels 49-A-112, 49-A-114 (owned by Palmers Creek, LLC) and 49-A-114-A (a portion of) owned by Massaponax Land Company, L.L.C.)

**Total Project Acreage:** ± 25.13

**Rezoning Request:** Mixed Use Development (MU-5)

**Current Zoning:** C-3 (± 20.452 acres) and RU (± 4.673 acres)

**Project Name:** Palmers Creek (“Project”)

**Date:** June 4, 2018

**File No.** R16-0009

The undersigned does hereby agree that the development of the Property shall be in conformance with the voluntary proffers provided hereunder and said proffers are being provided pursuant to Sections 15.2-2303.4, et seq. of the Code of Virginia (1950) as amended, and Section 23-4.6.3 of the Zoning Ordinance of Spotsylvania County (1995) as amended (collectively the “Proffers”). The Proffers shall supersede all other proffers made prior hereto, and thus upon the County’s approval of the Proffers, all previously approved proffers on the Property are void upon approval of the rezoning requested herein. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. Any improvements proffered herein below shall be provided at the time of development of the portion of the site adjacent to the improvement, unless otherwise specified. The terms “Applicant” and “Developer” shall include all future owners and successors in interest.

References in this Proffer Statement to plans and exhibits shall include the following:

Palmers Creek Generalized Development Plan For Rezoning (GDP) - prepared by Fairbanks & Franklin, dated November 10, 2017, last revised February 22, 2018, and consisting of the following sheets and Plan;

1. Palmers Creek Cover Sheet – Sheet 1 of 5
2. Palmers Creek Existing Conditions – Sheet 2 of 5



3. Palmers Creek Proposed Conditions – Sheet 3 of 5
4. Palmers Creek Proposed Conditions – Route 1 – Sheet 4 of 5
5. Palmers Creek Illustrative Plan and Details – Sheet 5 of 5

## 1. LAND USE

A. The Property, consisting of approximately ±25.13 acres, shall be developed as MU-5, Mixed Use Development. The Property will be developed in conformance with the GDP. Notwithstanding the foregoing, all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travelway locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the GDP may be reasonably adjusted for purposes of the final site or subdivision plans to allow the Applicant/Owner to address final development, engineering and design requirements, fulfill compliance with state and federal agency regulations including, but not limited to, DHR, VDOT, DEQ, DCR, Army Corps., etc., and fulfill compliance with the requirements of the County's development regulations and design standards manual. Notwithstanding the foregoing, any said adjustments to the GDP shall be subject to the approval of the County's Zoning Administrator, and in no event shall approved adjustments to the GDP relieve the Applicant/Owner from providing any of the below proffers.

### B. Mixed Use Development.

#### 1. Commercial.

- a. A maximum of 40,000 square feet of commercial by-right uses authorized under the Mixed Use 5 (MU-5) Zoning District shall be constructed on the Property. The location of the commercial development shall be located as shown on the GDP.
- b. The commercial buildings shall be a maximum of 1 story in height.
- c. Building designs on the Property shall be in conformance with the design concepts shown on the attached elevations entitled "Palmers Creek Retail Facility" dated March 19, 2018. The building shall be constructed primarily of brick, stucco, metal panel, siding, stone, cementitious materials and/or other equivalent materials having similar appearance to achieve the intended design quality as determined by the Applicant during the final construction design and based on the availability of materials.



- d. Facade signs advertising retail stores or services shall be located in a coordinated sign band directly above the first floor level. This sign placement requirement shall be included in the covenants for the property or the lease agreements for the tenant spaces. All sign placements shall be subject to review and approval by the landlord and such approval shall be demonstrated at the time of sign permit review..
- e. Awnings upon which tenant signage is placed shall project at least four (4) feet from the facade.

**2. Residential.**

- a. A maximum of 400 residential apartment units shall be constructed on the Property, and a maximum of 140 of the 400 apartment units may include 3 bedrooms.
- b. The maximum building height for Buildings 1, 2 and 3 shall be 4 stories.
- c. The maximum building height for Building 4 shall be 5 stories.
- d. **Phasing.** The development of the residential buildings shall be in two phases.
  - i. Phase I shall consist of approximately 200 residential units, as shown on the GDP, and the maximum building height of this phase shall be 4 stories.
  - ii. Phase II shall consist of approximately 100 to 200 residential units, as shown on the GDP, and the maximum building height of this phase shall be 5 stories. The architectural design of the Phase II building shall be consistent with the buildings in Phase I and the final building footprint shall be determined at the time of the Phase II final site plan review and approval.
  - iii. The phasing described above is intended to define the general order of development. Portions of phases (subphases) may be developed rather than requiring completion of the full number of dwelling units described above as Phase I or Phase II; provided, however, that roads, stormwater management, landscaping and related minimum infrastructure necessary to serve such building(s), phase(s) or subphase(s) are constructed to support the building(s), phase(s) or subphase(s).



- e. Building designs on the Property shall be in conformance with the design concepts shown on the attached elevations titled “Palmers Creek Apartments”, prepared by J. Price Architecture, dated November 2, 2016; subject to minor modifications as determined necessary by the Applicant.

## 2. TRANSPORTATION

- A. Road Network. The Applicant shall dedicate, from its property, right-of-way as shown on the GDP. Dedication of land for public roads shall include all related easements outside the right-of-way, such as slope, maintenance, storm drainage and utility relocation easements, necessary to construct the public roads and streets shown on the GDP.
- B. Access. The Property shall be served by two (2) primary entrances in the locations generally shown on the GDP. These two primary entrances include: (i) one right-of-way entrance on Jefferson Davis Highway (Route 1) north of the proposed commercial area; and (ii) one right-of-way entrance on Jefferson Davis Highway (Route 1) on the southern portion of the proposed commercial area.
- C. Interparcel Connections. The Applicant shall dedicate right-of-way and/or easements needed to construct the necessary stub streets from the Property to adjacent parcels in accordance with VDOT and County standards in the areas as shown on the GDP for purposes of providing interparcel access to adjoining lots. Construction of stub streets up to the property line shall occur at the time that street construction occurs in the area for each individual interparcel connection and shall be provided by the Applicant.
- D. Multi-Modal Transportation. A bus shelter shall be provided at one of the locations indicated on Sheet 3 of the GDP. The bus shelter location shall be determined at the time of final site plan approval. The bus shelter shall be constructed on a 6 ft. by 10 ft. concrete pad and include the features indicated in the details on Sheet 3 of the GDP, plus a 20 gallon perforated trash receptacle, and ash urn. The bus shelter shall be connected to a sidewalk, and the bus pull off area as depicted in the bus stop layout detail. Illumination of the bus shelter shall be from a nearby street light, parking lot lighting or a light provided specifically for the bus shelter. The bus stop/shelter design shall be incorporated with the final site plan for the residential area and shall be completed prior to issuance of an occupancy permit for a residential building.

## 3. COMMUNITY DESIGN

- A. Pedestrian Connectivity. A network of sidewalks and pedestrian trails shall be provided throughout the community and shall include the interconnection of destinations within the mixed use area by sidewalks adjacent to parking areas and along private streets as indicated in the Pedestrian Connections Diagram on Sheet 5 of 5 of the GDP.





1. **Trail.** A 5-foot wide paved trail shall be provided in the vicinity of the Regional Storm Water Management Area as shown on the GDP. The final location of the trail shall be determined based on engineering considerations.
  2. **Shared-Use Path.** A 10-foot wide shared-use path shall be provided along the site frontage on Jefferson Davis Hwy. If the right-of-way width represented in the GDP is sufficient without additional dedication from the Applicant's property, the shared-use path shall be within the right of way, or if the right of way is not sufficient, then that shared-use path shall be within an easement granting public access and providing for future maintenance as determined necessary during review of the final site plan.
- B. **Landscaping.** Landscaping provided on the Property shall be in general conformance with the detail shown on Sheet 3 of 5 of the GDP entitled "Typical Streetscape for Area Between Sidewalk and Building" and shall include, but not limited to, native species appropriate to the location and climate of the area; landscaping shall be drought resistant or as approved by the County.
1. Planting beds shall be provided between building entrances, patios, and parking areas generally as depicted in the detail labeled "Typical Streetscape for Area Between Sidewalk and Building" on Sheet 3 of the GDP, and shall include a mixture of flowering and evergreen species planted at the rate of 35 shrubs per 100 linear feet. Evergreen and deciduous trees shall be planted at the rate of 4 trees per 100 linear feet. Evergreen trees shall be 6 to 8 feet in height at the time of planting. Ornamental trees shall be 6 to 8 feet in height at the time of planting. Deciduous trees shall be 2 ½ inch caliper at the time of planting.

#### 4. ENVIRONMENT

The Applicant agrees to preserve a minimum of 5 acres of open space subject to necessary installation and construction of the Project's development features/ improvements, such as stormwater management facilities, utilities, trails, roads, passive recreational improvements and other features/improvements shown on the GDP.

#### 5. MONETARY CONTRIBUTION TO ADDRESS PUBLIC SERVICE IMPACT

The impact on public services due to residential development is \$101.01 per dwelling unit. To address this impact, the Applicant shall contribute \$101.01 per dwelling unit to Spotsylvania County prior to the issuance of a building permit for each residential building proposed on the GDP. The amount of the monetary contribution shall be equal to \$101.01 times the number of dwelling units in the building covered under the building permit subject to adjustments (escalation/de-escalation) as provided for herein.



## 6. ESCALATION/DE-ESCALATION CLAUSE

Commencing five (5) years after the approval of this rezoning application, the cash proffer for each residential unit shall be adjusted annually on January 1 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U). All Items (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be made by multiplying the Per Unit Contribution for the preceding year by the CPI as of December 1 in the preceding year. If the CPI-U is discontinued by the United States Department of Labor, the Marshall and Swift Building Cost Index formula shall be used as defined by Section 15.2.2303.3b of the Code of Virginia.

[Signatures on following pages]

Draft Proffer Statement  
Palmers Creek – R16-0009  
June 4, 2018



SIGNATURE PAGE

Palmers Creek, LLC  
a Virginia limited liability company

By: Dawn C. Hart, Jr.  
Manager

By: Thomas J. Medala  
Manager

COMMONWEALTH OF VIRGINIA:

County of Spotsylvania

Subscribed and sworn before me this 6<sup>th</sup> day of June, 2018 in my county and state aforesaid, by the aforementioned principal.

Anita J. Thorpe  
NOTARY PUBLIC

My Commission Expires: 5-31-2020

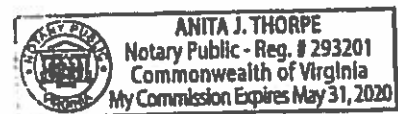
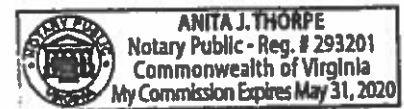
COMMONWEALTH OF VIRGINIA:

County of Spotsylvania

Subscribed and sworn before me this 6<sup>th</sup> day of June, 2018 in my county and state aforesaid, by the aforementioned principal.

Anita J. Thorpe  
NOTARY PUBLIC

My Commission Expires: 5-31-2020



Draft Proffer Statement  
Palmers Creek – R16-0009  
June 4, 2018



SIGNATURE PAGE

Massaponax Land Company, L.L.C.  
a Virginia limited liability company

By: [Signature]  
Operating Manager

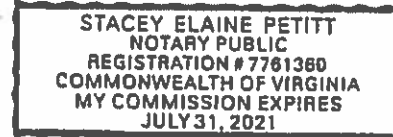
COMMONWEALTH OF VIRGINIA:

City of Fredericksburg  
County of \_\_\_\_\_

Subscribed and sworn before me this 6<sup>th</sup> day of June, 2018 in my  
county and state aforesaid, by the aforementioned principal.

Stacey Elaine Pettit  
NOTARY PUBLIC

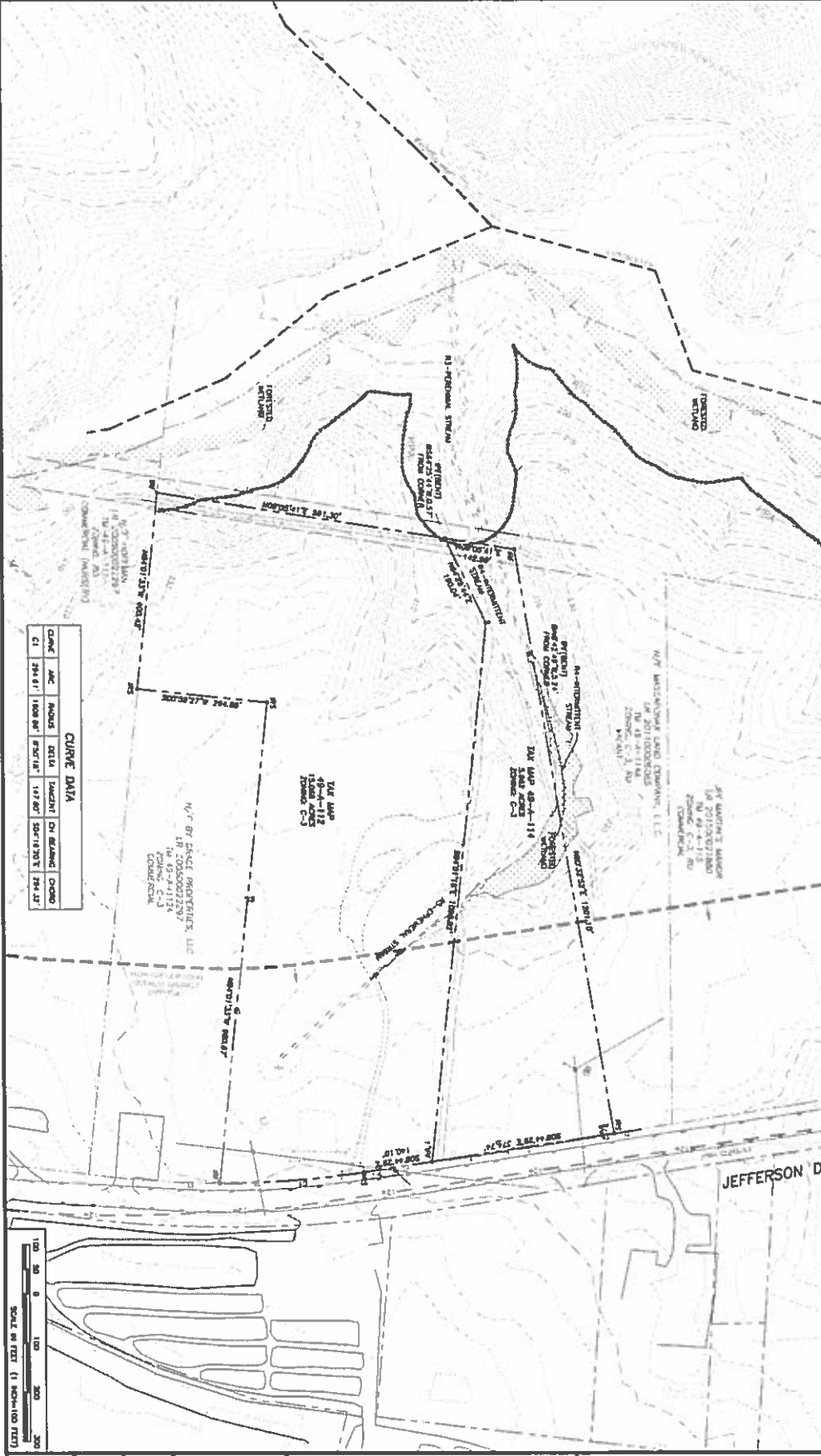
My Commission Expires: July 31, 2021





**LEGEND**

DATE OF PRESENT	---
PROPERTY LINE/PORT OF WAY	---
CONTROL LINE	---
WATER	---
SEWER	---
ROAD	---
CONTRACTED/UTILITY LINE	---
UTILITY PROPOSED	---
OVERHEAD ELECTRIC	---
UTILITY POLE	---
OUTLINE	---



**CURVE DATA**

Curve	ARC	Radius	Delta	Tangent	Chord Bearing	Chord
C1	384.81'	1800.00'	19.471°	147.00'	S50°18'30"E	394.47'



**APPROVAL**

**Fairbanks & Franklin**  
 Planning & Surveying  
 1000 North 1st Street  
 Anchorage, Alaska 99501  
 Phone: 907.562.1111  
 Fax: 907.562.1112

**PALMERS CREEK  
 GENERALIZED DEVELOPMENT PLAN  
 FOR REZONING**

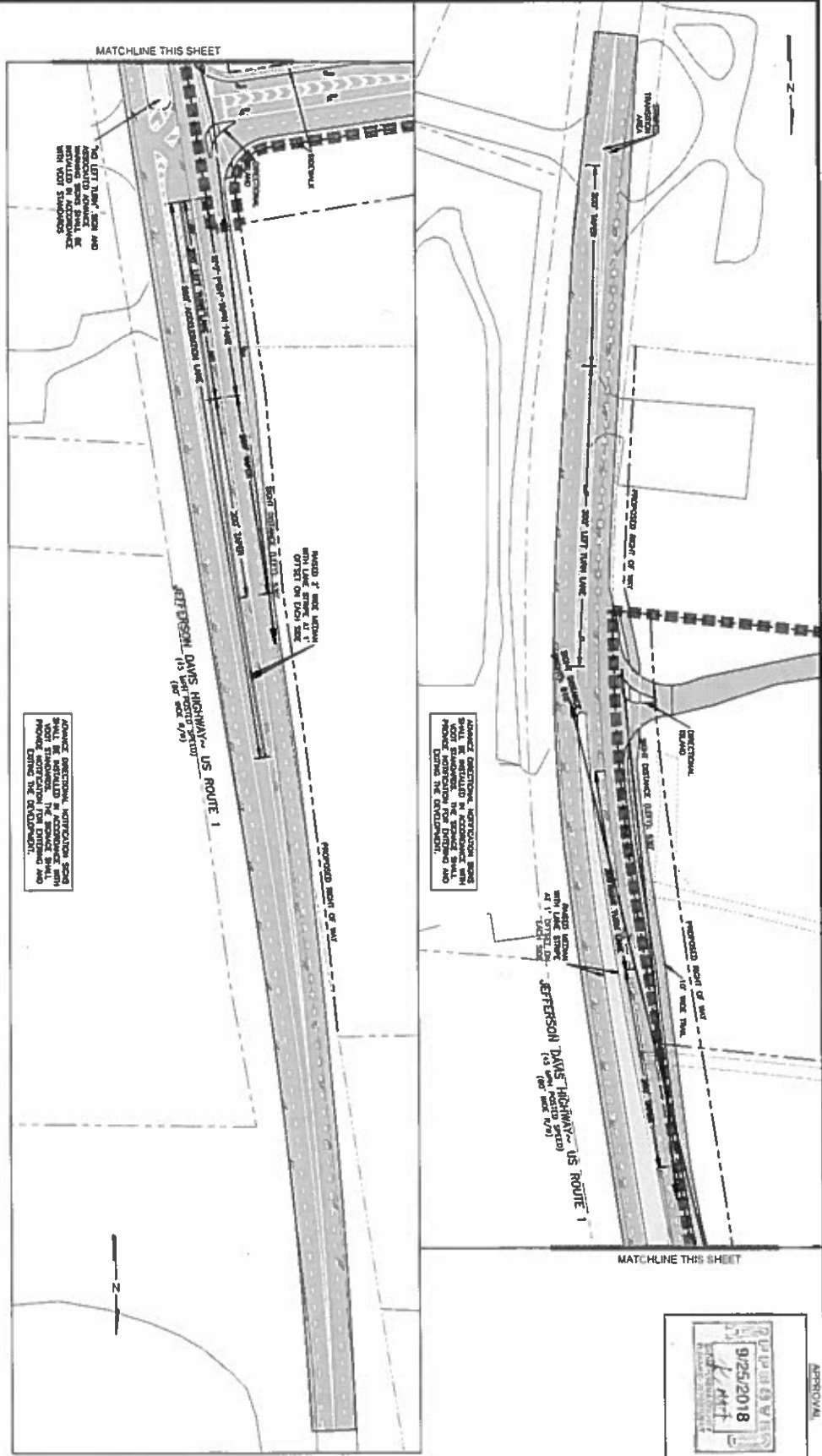
**EXISTING CONDITIONS**

**City of Anchorage**  
 Planning & Surveying  
 225 West 5th Avenue  
 Anchorage, Alaska 99501  
 Phone: 907.263.3100  
 Fax: 907.263.3101

**DATE:** 11/03/17  
**DESIGNED BY:** JAC  
**DRAWN BY:** JAC  
**CHECKED BY:** JAC  
**APPROVED BY:** JAC

**DOCUMENT NO:** 126-1016  
**SHEET:** 2 OF 5





**APPROVAL**

**Fairbanks & Franklin**  
 City Engineer  
 1 East Broadway  
 Palmdale, CA 93550  
 Tel: 805.799.4444

**PROPOSED CONDITIONS-ROUTE 1**

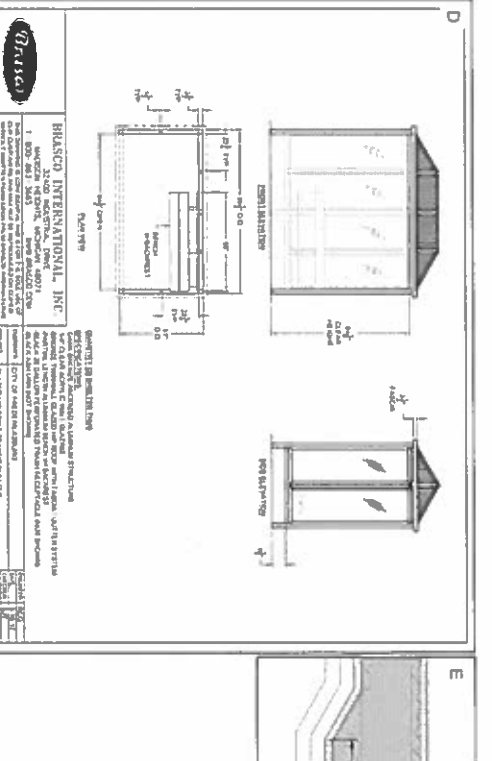
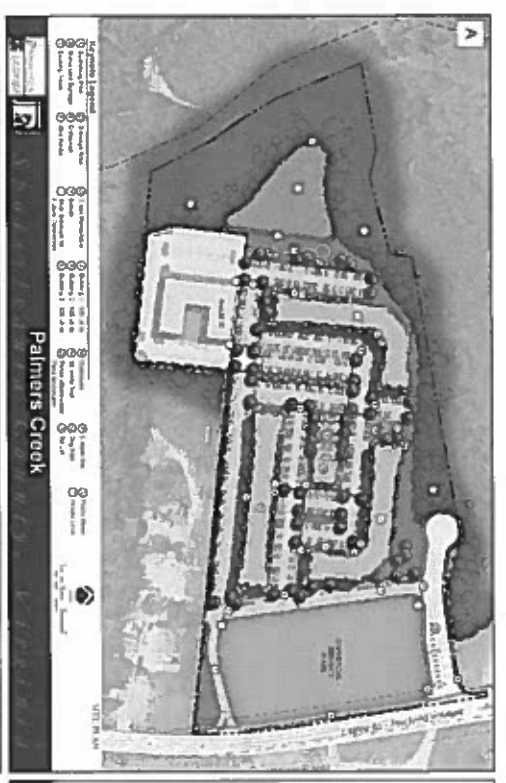
**PALMERS CREEK  
 GENERALIZED DEVELOPMENT PLAN  
 FOR REZONING**



DATE: 11/20/17  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 APPROVED BY: [Signature]  
 02/27/18

DOCUMENT NO: 136-1018  
 SHEET: 4 OF 5





**Fairbanks & Franklin**  
 Civil Engineering  
 1400 E. Street  
 Palmdale, CA 93550  
 Phone: (805) 251-1111  
 Fax: (805) 251-1112

**ILLUSTRATIVE PLAN AND DETAILS**

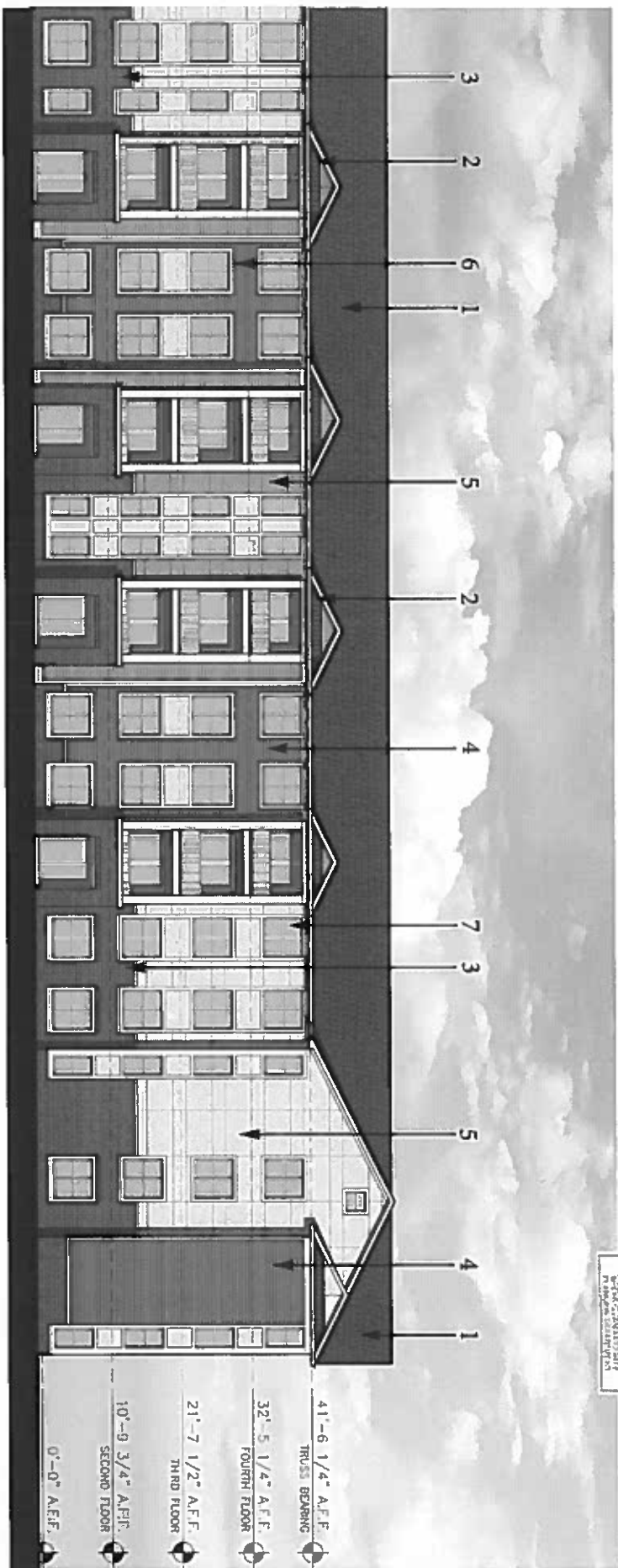
**PALMERS CREEK  
 GENERALIZED DEVELOPMENT PLAN  
 FOR REZONING**



DATE: 11/06/17  
 DRAWN BY: JF  
 CHECKED BY: JF  
 INCHES: 1/8" = 1'-0"  
 02/27/18

EXPLANATION:  
 128-1018  
 9-13  
 5

FIGURES A, B AND C SHOWN ON THIS PAGE ARE PROVIDED BY TIGLAD DESIGN GROUP. ELEMENTS D AND E SHOWN ON THIS PAGE PROVIDED BY FAIRBANKS AND FRANKLIN REGIONAL TRAVEL.



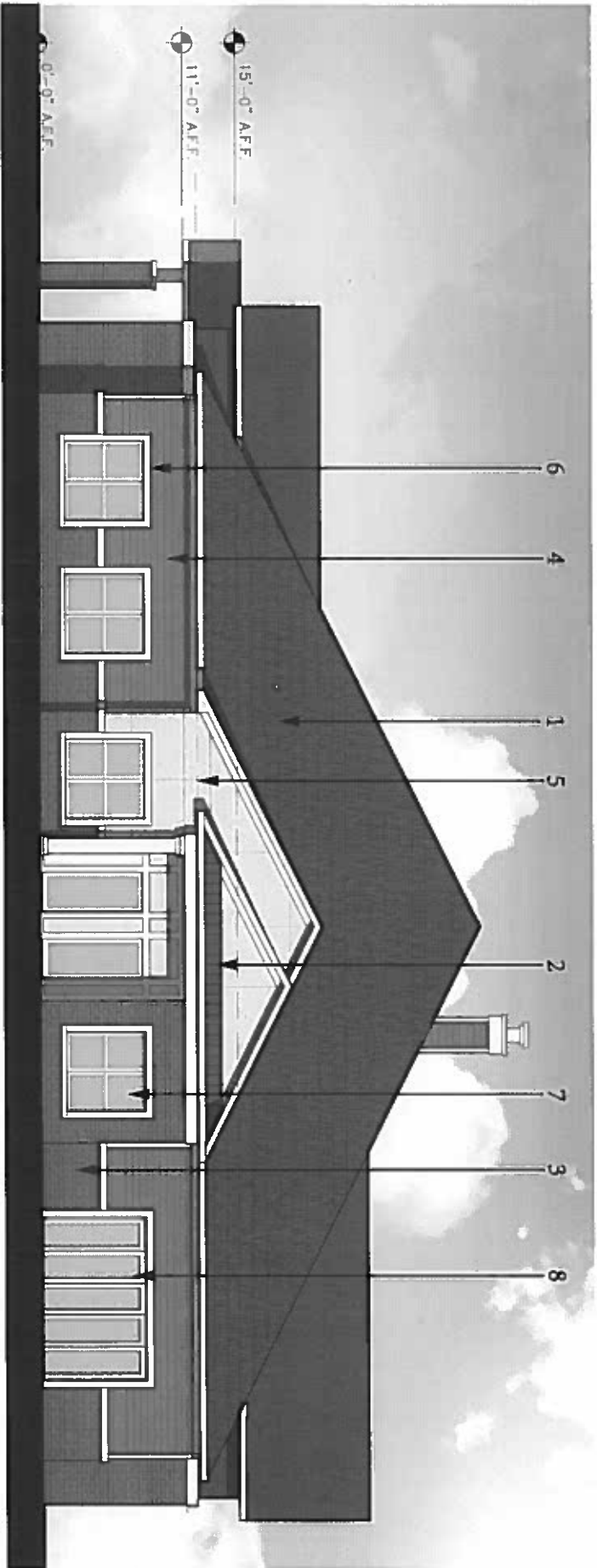
9/25/2018  
 J. PRICE ARCHITECTURE  
 102 WEST KINGS STREET, SUITE 2  
 SPOTSWYLVANIA, VA 22961  
 WWW.JPRICEARCHITECTURE.COM

- Materials:
- 1. Architectural Fiberglass Shingles
  - 2. Standing Seam Metal Roof Accent
  - 3. Modular Brick Veneer
  - 4. Cementitious Lap Siding
  - 5. Cementitious Panel Siding
  - 6. Cementitious Trim
  - 7. Architectural Vinyl Window Systems

# PALMERS CREEK APARTMENTS

BUILDING 2 ELEVATION @ 1/16" = 1'-0"  
 U.S. HIGHWAY 1 SPOTSYLVANIA COUNTY, VA  
 NOVEMBER 2, 2016





- Materials:**
- 1. Architectural Fiberglass Shingles
  - 2. Standing Seam Metal Roof Accent
  - 3. Modular Brick Veneer
  - 4. Cementitious Lap Siding
  - 5. Cementitious Panel Siding
  - 6. Cementitious Trim
  - 7. Architectural Vinyl Window Systems
  - 8. Aluminum Storefront (White)

# PALMERS CREEK APARTMENTS

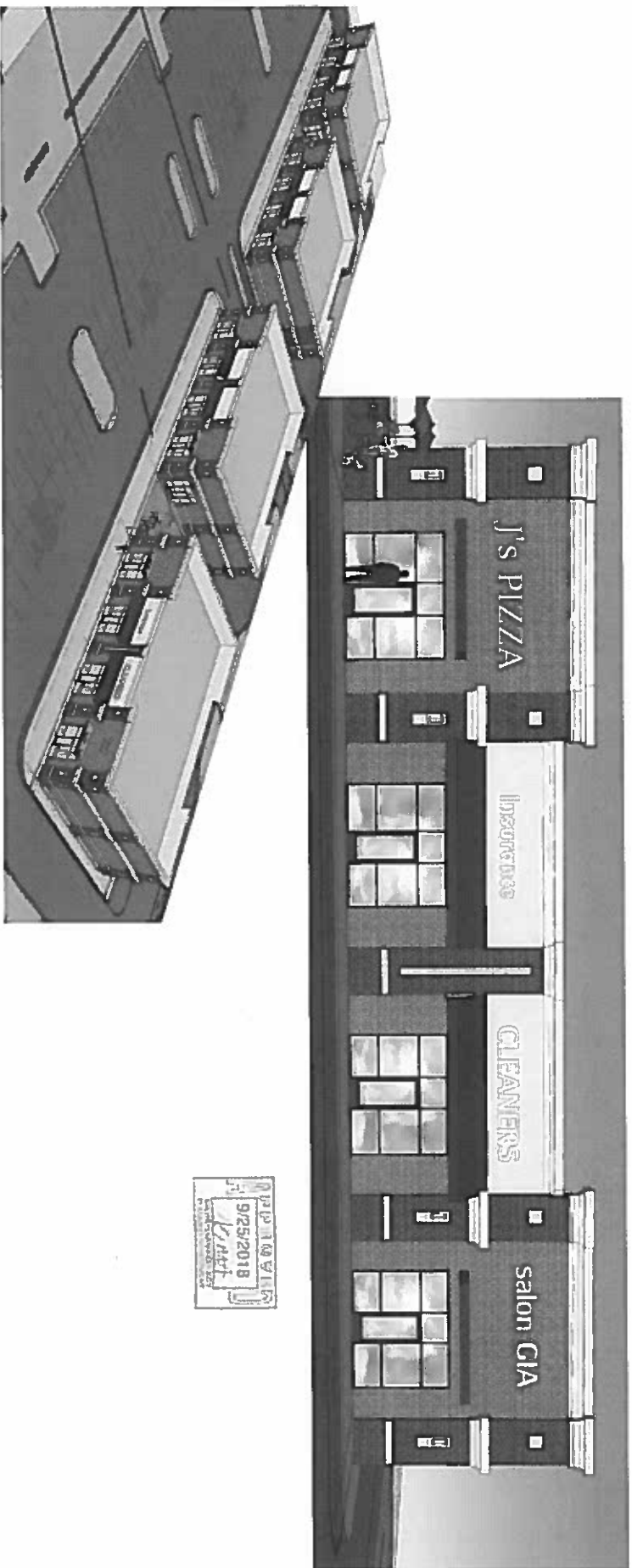
CLUBHOUSE ELEVATION @ 1/8" = 1'-0"

U.S. HIGHWAY 1 SPOTSYLVANIA COUNTY, VA

NOVEMBER 2, 2016



J. PRICE ARCHITECTURE  
 102 West Kinross Street, Suite 10  
 Lynch, Virginia 22501-4238 (434-723-5291)  
 www.jpricearchitecture.com



9/25/2018  
K. Miller  
ARCHITECTURE, INC.

# Palmers Creek Retail Facility Spotsylvania County, Virginia



19 MARCH 2018



# Cash Register Receipt

Spotsylvania County

**Receipt Number**  
**CC092295**

DESCRIPTION	ACCOUNT	QTY	PAID
<b>PermitTRAK</b>			<b>\$263.18</b>
<b>MISC19-0143 Address: 8934 JEFFERSON DAVIS HWY APN: 49-19 - 3-</b>			<b>\$263.18</b>
<b>Credit Card Fee</b>			<b>\$6.92</b>
Credit Card Fee	731-0000-250-01-07	0	\$6.92
<b>PERMIT CENTER FEES</b>			<b>\$65.00</b>
PROCESSING FEE	260-0000-318-99-14	0	\$65.00
<b>ZONING FEES OTHER</b>			<b>\$191.26</b>
ZONING CONFIRMATION LETTER COM	260-0000-313-03-45	0	\$191.26
<b>TOTAL FEES PAID BY RECEIPT:CC092295</b>			<b>\$263.18</b>

Date Paid: Friday, September 06, 2019

Paid By: Trudy Sloan

Cashier: NLF

Pay Method: CREDIT CARD 116011

H

Attorney's Opinion  
(MANDATORY)

# WILLIAMS MULLEN

Direct Dial: 804.420.6915  
adomson@williamsmullen.com

September 30, 2019

TO: Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, VA 23220

RE: 2018 Tax Credit Reservation Request

Name of Development: Palmers Creek  
Name of Owner: BWF Palmers Creek, LLC

Gentlemen:

This undersigned firm represents the above-referenced Owner as its counsel. It has received a copy of and has reviewed the completed application package dated September 30, 2019 (of which this opinion is a part) (the "Application") submitted to you for the purpose of requesting, in connection with the captioned Development, a reservation of low income housing tax credits ("Credits") available under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"). It has also reviewed Section 42 of the Code, the regulations issued pursuant thereto and such other binding authority as it believes to be applicable to the issuance hereof (the regulations and binding authority hereinafter collectively referred to as the "Regulations").

Based upon the foregoing reviews and upon due investigation of such matters as it deems necessary in order to render this opinion, but without expressing any opinion as to either the reasonableness of the estimated or projected figures or the veracity or accuracy of the factual representations set forth in the Application, the undersigned is of the opinion that:

1. It is more likely than not that the inclusion in eligible basis of the Development of such cost items or portions thereof, as set forth in the Hard Costs and Owners Costs section of the Application form, complies with all applicable requirements of the Code and Regulations.
2. The calculations (a) of the Maximum Allowable Credit available under the Code with respect to the Development and (b) of the Estimated Qualified Basis of each building in the Development comply with all applicable requirements of the Code and regulations, including the selection of credit type implicit in such calculations.
3. The information set forth in the Unit Details section of the Application form as to proposed rents satisfies all applicable requirements of the Code and Regulations.
4. The site of the captioned Development is controlled by the Owner, as identified in the Site Control section of the Application.

# WILLIAMS MULLEN

September 30, 2019  
Page 2

Finally, the undersigned is of the opinion that, if all information and representations contained in the Application and all current law were to remain unchanged, upon the placement in service of each building of the Development, the Owner would be eligible under the applicable provisions of the Code and the Regulations to an allocation of Credits in the amount(s) requested in the Application.

This opinion is rendered solely for the purpose of inducing the Virginia Housing Development Authority ("VHDA") to issue a reservation of Credits to the Owner. Accordingly, it may be relied upon only by VHDA and may not be relied upon by any other party for any other purpose.

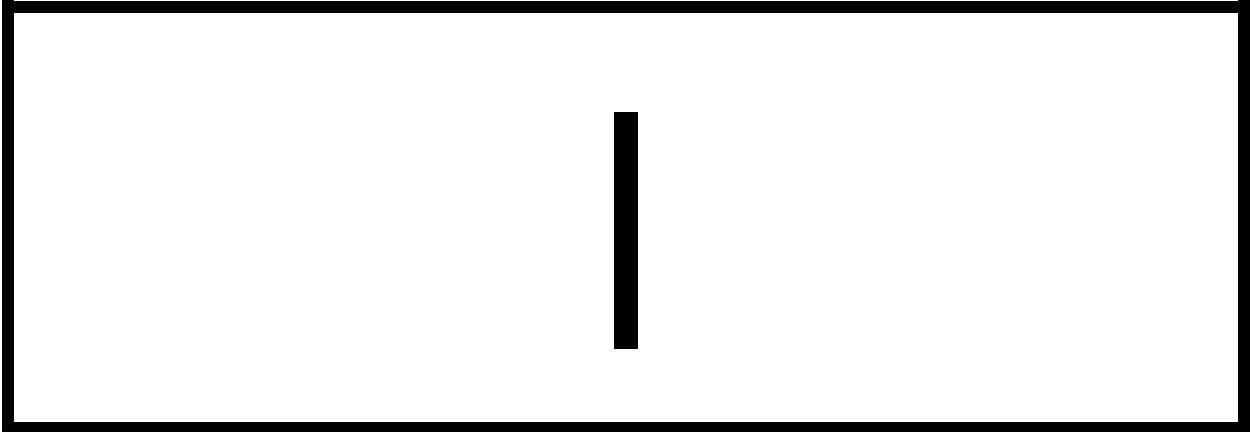
This opinion was not prepared in accordance with the requirements of Treasury Department Circular No. 230. Accordingly, it may not be relied upon for the purpose of avoiding U.S. Federal tax penalties or to support the promotion or marketing of the transaction or matters addressed herein.

WILLIAMS MULLEN, A Professional Corporation



By: \_\_\_\_\_  
Allison T. Domson  
Its: Shareholder





# Nonprofit Questionnaire

(MANDATORY for points or pool)

This deal does not require  
information behind this tab.

J

# Relocation Plan

(MANDATORY, if tenants are displaced)

This deal does not require  
information behind this tab.

K

Documentation of  
Development Location:

This deal does not require  
information behind this tab.

**K.1**

Revitalization Area  
Certification

This deal does not require  
information behind this tab.



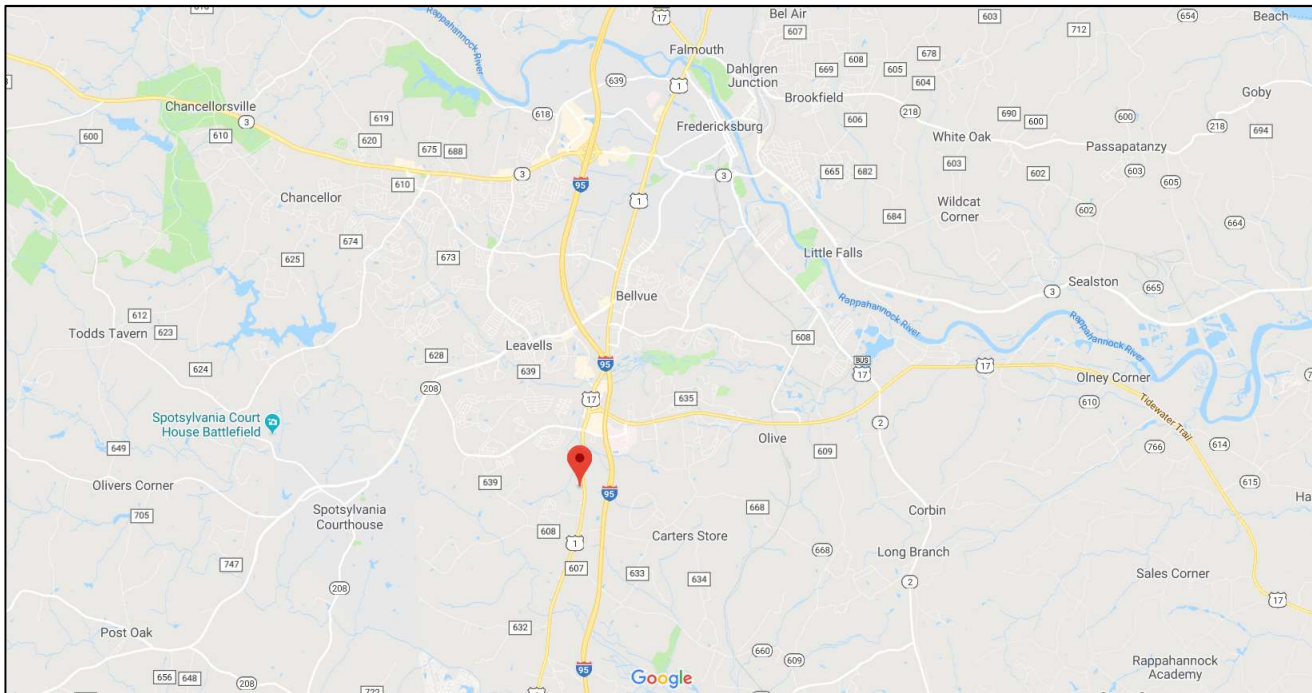
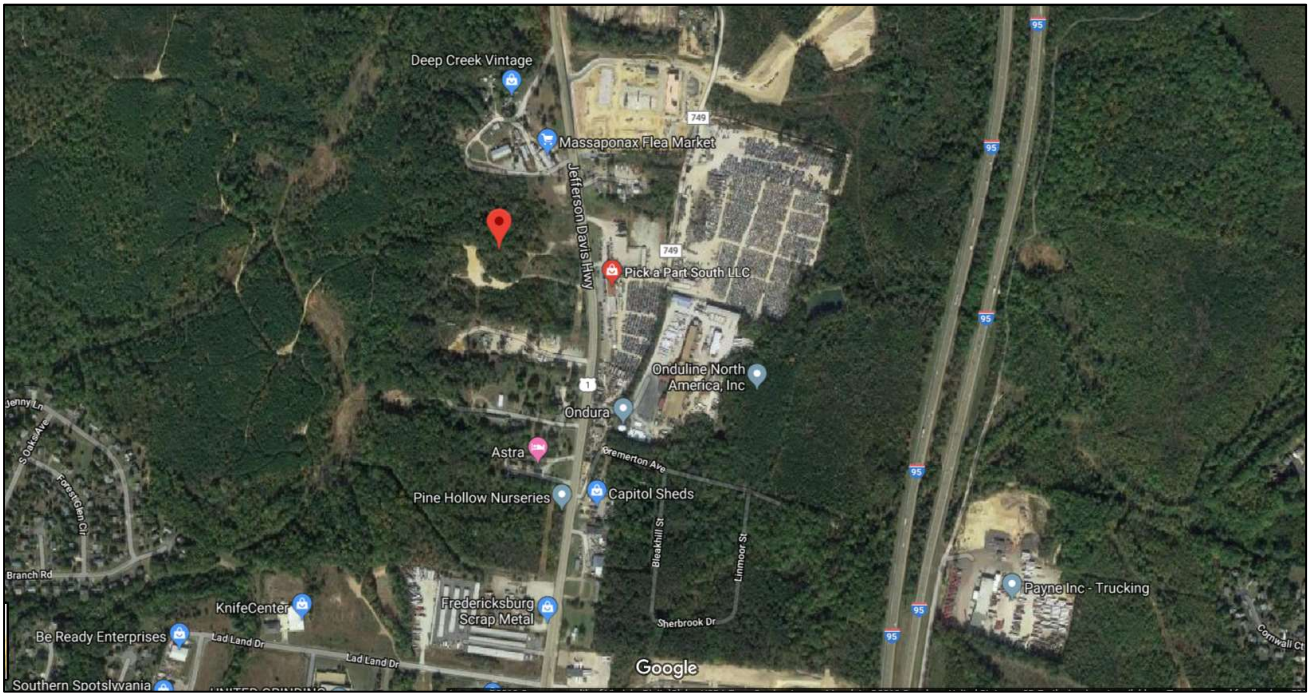
K.2

Location Map

# BONAVENTURE

REALTY GROUP, LLC

## Location Map



2700 South Quincy St., Ste. 500 | Arlington, VA 22206  
t. 703.567.4590 | f. 703.832.8319 | [bonaventure.com](http://bonaventure.com)



K.3

Surveyor's Certification of  
Proximity to Public  
Transportation

This deal does not require  
information behind this tab.



L

PHA/Section 8 Notification  
Letter

This deal does not require  
information behind this tab.

M

Locality CEO Response  
Letter

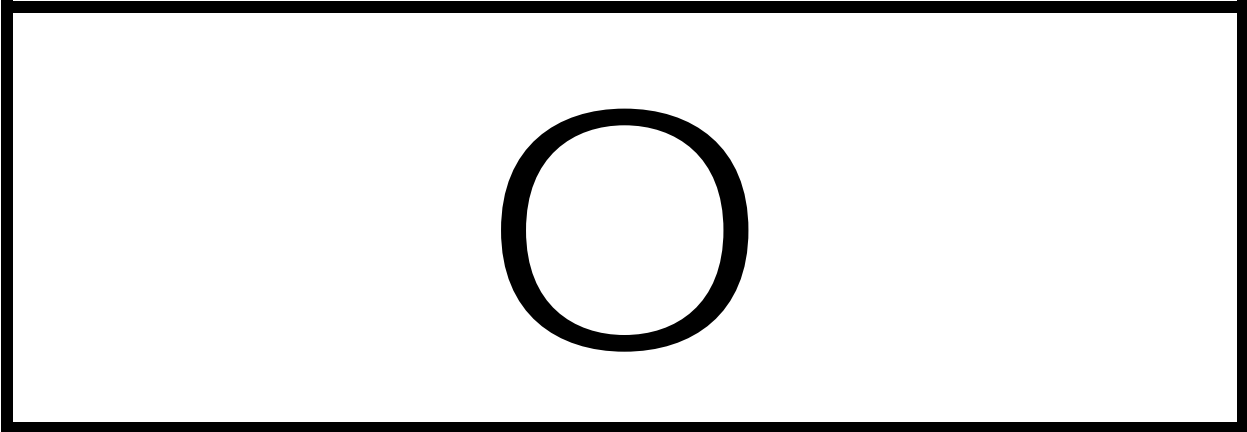
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information behind this tab.



**N**

Homeownership Plan

This deal does not require  
information behind this tab.



O

Plan of Development  
Certification Letter

County of Spotsylvania  
Founded 1721

Board of Supervisors  
GREG BENTON  
KEVIN W. MARSHALL  
TIMOTHY J. McLAUGHLIN  
CHRIS YAKABOUSKI  
DAVID ROSS  
GARY F. SKINNER  
PAUL D. TRAMPE



Department of Planning  
WANDA PARRISH, AICP  
Planning Director  
9019 OLD BATTLEFIELD BLVD, STE 320  
SPOTSYLVANIA, VA 22553  
PHONE: (540) 507-7434

*Service, Integrity, Pride*

**Plan of Development Certification**

**DATE:** 27 September, 2019

**TO:** Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220  
Attention: JD Bondurant

**RE:** PLAN OF DEVELOPMENT CERTIFICATION

Name of Development:	<u>Palmers Creek</u>
Name of Owner/Applicant:	<u>BWF Palmers Creek, LLC</u>
Name of Seller/Current Owner:	<u>Palmers Creek, LLC</u>

The above-referenced Owner/Applicant has asked this office to complete this form letter regarding the site plan of the proposed Development (more fully described below). This certification is rendered solely for the purpose of confirming the status of plan of development or site plan approval of the Development. It is understood that this letter will be used by the Virginia Housing Development Authority solely for the purpose of determining whether the Development qualifies for points available under VHDA's Qualified Allocation Plan for housing tax credits.

**DEVELOPMENT DESCRIPTION:**

Development Address:

9012 Jefferson Davis Highway, Fredericksburg, VA 22407

Legal Description:

See Attached

Plan of Development Number:

ST18-0050

Proposed Improvements:

<input checked="" type="checkbox"/> New Construction:	200	# Units	2	# Buildings	256,826	Total Floor Area
<input type="checkbox"/> Adaptive Reuse:		# Units		# Buildings		Total Floor Area
<input type="checkbox"/> Rehabilitation:		# Units		# Buildings		Total Floor Area

Other Descriptive Information:

Each building will have elevator service, interior conditioned corridors. Property will also feature an approximate 6 600 SF clubhouse, with pool, business center, state of the art gym, ample entertaining areas and activity rooms.

LOCAL CERTIFICATION:

Check one of the following as appropriate:

- The proposed development described above has an approved final plan of development or site plan (as applicable to the site). No further plan of development or site plan approval is required before issuance of a building permit.
- The proposed development is an existing development with proposed renovations and no additional plan of development approval is needed.

The above plan of development approval is in effect until: 09-2024

*Wanda C. Parrish, AICP*  
 Signed \_\_\_\_\_  
 Wanda C Parrish, AICP  
 Department Head  
 Title \_\_\_\_\_  
 540 507 7934  
 Phone \_\_\_\_\_  
 9-27-2019  
 Date \_\_\_\_\_

NOTES TO LOCALITY:

1. Return this certification to the developer for inclusion in the tax credit application package.
2. Any change in this form may result in a reduction of points under the scoring system. If you have any questions, please call the Tax Credit Allocation Department at (804) 343-5518.

**EXHIBIT "A"**

**ALL THAT certain lot, piece or parcel of land situated, lying and being in Spotsylvania County, Virginia, and designated as "Parcel 1 9.525 Acres" on that certain plat entitled "Article 13 Subdivision Plat on the Lands of Palmers Creek, LLC, LR 200600010842, Courtland Magisterial District, Spotsylvania County, Virginia," dated April 30, 2019, and recorded in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia, on June 14, 2019, as Instrument Number 19-9088.**

*For Informational Purposes Only:*

**Property Address: 8936, 8934 & 8932 Jefferson Davis Highway, Fredericksburg, VA 22407**

**Tax ID: 49-A-112**

*(With Virginia modifications)*

*Adopted 08-01-2016  
Technical Corrections 04-02-2018*

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Fidelity National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*

Page 2 of 10

P

Copies of 8609s to  
Certify Developer  
Experience and  
Partnership agreements

**FIRST AMENDED AND RESTATED OPERATING AGREEMENT**

**OF**

**BWF GLEN ARBOR, LLC**



FIRST AMENDED AND RESTATED OPERATING AGREEMENT

OF

BWF GLEN ARBOR, LLC

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**FIRST AMENDED AND RESTATED OPERATING AGREEMENT**  
**OF**  
**BWF GLEN ARBOR, LLC**

This First Amended and Restated Operating Agreement of BWF Glen Arbor, LLC, dated and effective as of the 1<sup>st</sup> day of May, 2017, is made by and among:

BWF Glen Arbor MM, LLC  
a Virginia limited liability company,  
as the “Managing Member”  
and  
Fulton Bank, N.A.  
a national banking association,  
as the “Investor Member”.

**RECITALS**

BWF Glen Arbor, LLC (the "Company") was formed as a limited liability company under and pursuant to the provisions of the Virginia Limited Liability Company Act (hereinafter referred to as the “Act”) pursuant to an Articles of Organization filed with the Virginia State Corporation Commission on October 5, 2016 having BWF Glen Arbor MM, LLC, as Managing Member. The Company has been operating pursuant to an Operating Agreement dated as of October 5, 2016 (the “Original Operating Agreement”), having Managing Member as the sole Member.

The parties hereto desire to amend and restate the Operating Agreement in its entirety, in order to cause, (i) the admission of the Investor Member as a member, and (ii) to set forth more fully the rights, obligations, and duties of the Managing Member and the Investor Member.

Accordingly, in consideration of the foregoing, of the mutual promises of the parties hereto, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby agree as follows:

**ARTICLE I - CONTINUATION AND BUSINESS PURPOSE**

**1.01 Restatement and Continuation of Company**

The Managing Member and the Investor Member, constituting all of the Members of the Company, hereby amend and restate the Original Operating Agreement in its entirety and continue the Company under the Act.

#### **1.02 Company Name**

The name of the Company is "BWF Glen Arbor, LLC."

#### **1.03 Principal Place of Business**

The principal office of the Company and the office to be maintained pursuant to the Act shall be located at 2700 S. Quincy Street, Suite 500, Arlington, Virginia 22206. The principal place of business of the Company shall be located at 1901 Stevens Rd, Woodbridge, VA 22191.

#### **1.04 Registered or Resident Agent**

The name and address of the registered or resident agent of the Company for service of process is Dwight D. Dunton, III, 2700 S. Quincy Street, Suite 500, Arlington, Virginia 22206.

#### **1.05 Title to Company Property**

Legal title to the Company Property shall be in the name of the Company, and no Member, individually, shall have any ownership of such Company Property.

#### **1.06 Purposes of the Company**

The purposes, nature, and general character of the business of the Company shall consist of:

(a) Acquiring, owning, developing, constructing and/or rehabilitating, leasing, managing, operating, and, if appropriate or desirable, selling or otherwise disposing of the Company Property or any substantial part thereof;

(b) During the Compliance Period, operating the Credit Units in compliance with the provisions of Section 42 of the Code; and

(c) Carrying on any and all activities related to the foregoing in accordance with this Agreement.

The purposes of this Company and the nature and character of its business shall not be extended, by implication or otherwise, except by written consent of the Members.

The Investor Member acknowledges that the Company intends (and is required by the terms of certain governmental regulatory agreements and encumbrances) to operate the Project throughout the term of the Company as a low income housing project available only for persons having adjusted family incomes not in excess of certain specific limitations, and as a result distributions of cash may be restricted.

#### **1.07 Company Term**

The term of the Company commenced on October 5, 2016 and shall continue in perpetuity, unless sooner terminated in accordance with Article XII. Upon termination of the Company, the Managing Member shall take all actions necessary to terminate the Company in accordance with requirements of the Act.

#### **1.08 Admission of Investor Member.**

The Investor Member is hereby admitted to the Company.

#### **1.09 Single Purpose Entity Requirements.**

(a) Single Purpose Entity Requirements. Until the Indebtedness is paid in full, the Company and the Managing Member will remain a “**Single Purpose Entity**,” which means at all times since its formation and thereafter it will satisfy each of the following conditions:

(i) It will not engage in any business or activity, other than the ownership, operation and maintenance of the Company Property and activities incidental thereto.

(ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Company Property and such personalty as may be necessary for the operation of the Company Property and will conduct and operate its business as presently conducted and operated.

(iii) It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.

(iv) It will not merge or consolidate with any other Person.

(v) It will not take any action to dissolve, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; to change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfers permitted under this Continuing Covenant Agreement; issue additional partnership, membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.

(vi) It will not, without the prior unanimous written consent of all of Company’s members, take any of the following actions:

(A) File any insolvency, or reorganization case or proceeding, to institute proceedings to have the Company or Managing Member be adjudicated bankrupt or insolvent.

(B) Institute proceedings under any applicable insolvency law.

(C) Seek any relief under any law relating to relief from debts or the protection of debtors.

(D) Consent to the filing or institution of bankruptcy or insolvency proceedings against the Company or the Managing Member.

(E) File a petition seeking, or consent to, reorganization or relief with respect to the Company or the Managing Member under any applicable federal or state law relating to bankruptcy or insolvency.

(F) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for the Company or a substantial part of its property or for the Managing Member or a substantial part of its property.

(G) Make any assignment for the benefit of creditors of the Company or the Managing Member.

(H) Admit in writing the Company or the Managing Member's inability to pay its debts generally as they become due.

(I) Take action in furtherance of any of the foregoing.

(vii) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section 1.09.

(viii) It will not own any subsidiary or make any investment in, any other Person.

(ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.

(x) It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the following:

(A) The Loans.

(B) Customary unsecured trade payables incurred in the ordinary course of owning and operating the Company Property provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Loans and are paid within 60 days of the date incurred.

(C) through (H) are Reserved.

(xi) It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that the Company's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation



will be made on such consolidated financial statements to indicate the separateness of the Company from such Affiliate and to indicate that Company's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person and (B) such assets will also be listed on Company's own separate balance sheet.

(xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of the Company or any Guarantor, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.

(xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.

(xiv) It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the Loan) the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.

(xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Loan Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).

(xvi) It will file its own tax returns separate from those of any other Person, except to the extent that the Company is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law, and will pay any taxes required to be paid under applicable law.

(xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person.

(xviii) It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and will pay its debts and liabilities from its own assets as the same become due.

(xix) It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.

(xx) It will pay (or cause the Managing Member to pay on behalf of the Company from Company's funds) its own liabilities (including salaries of its own employees) from its own funds.

(xxi) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.

(xxii) Except as contemplated or permitted by the property management agreement with respect to the Managing Member, it will not permit any Affiliate or constituent party independent access to its bank accounts.

(xxiii) It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds.

(b) Effect of Transfer on Single Purpose Entity Requirements. Notwithstanding anything to the contrary in this Agreement, no transfer will be permitted under Article IX or X unless the provisions of this Section 1.09 are satisfied at all times.

#### **1.10 HUD-Required Provisions for Borrower's Organizational Documents**

Notwithstanding any clause of provision in this Agreement or the Certificate to the contrary and so long as the United States Department of Housing and Urban Development ("HUD") or a successor or assign of HUD is the insurer or holder of a loan to the Company ("the HUD-insured Loan") secured by the deed of trust on Glen Arbor Apartments (FHA #051-11365) in Woodbridge, Prince William County, Virginia (the "Project") the following provisions shall apply:

(a) If any of the provisions of the Company's organizational documents conflict with the terms of the HUD-insured Note, Security Instrument, or HUD Regulatory Agreement ("HUD Loan Documents"), the provisions of the HUD Loan Documents shall control.

(b) No provision required by HUD to be inserted into the Company's organizational documents may be amended without HUD's prior written approval. Additionally, if there is a conflict between any HUD-required provisions stated in this Section 1.10 and any other provision of this Agreement, the terms of Section 1.10 will govern; and if there is a conflict between any of the provisions in the Certificate and this Section 1.10, the HUD-required provisions will govern.

(c) Unless otherwise approved in writing by HUD, the Company's business and purpose shall consist solely of the acquisition, ownership, operation and maintenance of the Project and activities incidental thereto. Company shall not engage in any other business or activity. The Project shall be the sole asset of the Company entity, which shall not own any other real estate other than the aforesaid Project.

(d) None of the following will have any force or effect without the prior written consent of HUD:

- (i) Any amendment to this Agreement that modifies the term of Company's existence;
  - (ii) Any amendment to this Agreement that triggers application of the HUD previous participation certification requirements (as set forth in Form HUD 2530, Previous Participation Certification, or 24 CFR § 200.210, et seq.);
  - (iii) Any amendment to this Agreement that in any way affects the HUD Loan Documents;
  - (iv) Any amendment to this Agreement that would authorize any member, partner, owner, officer or director, other than the one previously authorized by HUD, to bind the Company entity for all matters concerning the Project which require HUD's consent or approval;
  - (v) A change that is subject to the HUD TPA requirements contained in Chapter 13 of HUD Handbook 4350.1 REV-1; or
  - (vi) Any change in a guarantor of any obligation to HUD (including those obligations arising from violations of the HUD Regulatory Agreement).
- (e) The Company entity is authorized to execute a Note and Security Instrument in order to secure a loan to be insured by HUD and to execute the HUD Regulatory Agreement and other documents required by the Secretary in connection with the HUD-insured loan.
- (f) Any incoming member of the Company must as a condition of receiving an interest in the Company entity agree to be bound by the HUD Loan Documents and all other documents required in connection with the HUD-insured loan to the same extent and on the same terms as the other members/partners/owners.
- (g) Upon any dissolution, no title or right to possession and control of the Project, and no right to collect the rents from the Project, shall pass to any person or entity that is not bound by the HUD Regulatory Agreement in a manner satisfactory to HUD.
- (h) The key principals of the Company identified in the HUD Regulatory Agreement are liable in their individual capacities to HUD to the extent set forth in the HUD Regulatory Agreement.
- (i) The Company shall not voluntarily be dissolved or converted to another form of entity without the prior written approval of HUD.
- (j) The Company has designated Chris Cobb as its official representative for all matters concerning the Project that require HUD consent or approval. The signature of this representative will bind the Company in all such matters. The Company may from time to time appoint a new representative to perform this function, but within three business days of doing so, will provide HUD with written notification of the name, address, and telephone number of its new representative. When a person other than the person identified above has full or partial

authority with respect to management of the Project, the Company will promptly provide HUD with the name of that person and the nature of that person's management authority.

(k) Notwithstanding any provision in this Agreement to the contrary, any obligation of the Company to provide indemnification under this Agreement shall be limited to (i) amounts mandated by state law, if any, (ii) coverage afforded under any liability insurance carried by the Company, and (iii) available "surplus cash" of the Company as defined in the HUD Regulatory Agreement. Until funds from a permitted source for payment of indemnification costs are available for payment, the Company shall not (a) pay funds to any members, or (b) pay the deductible on an indemnification policy for any members.

(l) Notwithstanding any provision in this Agreement to the contrary, in no event shall the members amend this Agreement or the Certificate in any manner which affects the obligations of the Investor Member without the written consent of the First Priority Mortgage Lender and HUD.

## ARTICLE II - CERTAIN DEFINITIONS

### 2.01 General Terms

The following defined terms used in this Agreement shall have the meanings specified below:

**20% Completion:** Evidenced by a certificate from the Architect that construction of the Project is 20% complete.

**40% Completion:** Evidenced by a certificate from the Architect that construction of the Project is 40% complete.

**60% Completion:** Evidenced by a certificate from the Architect that construction of the Project is 60% complete.

**80% Completion:** Evidenced by a certificate from the Architect that construction of the Project is 80% complete.

**Accountants:** CohnReznick or such other firm of independent certified public accountants that is acceptable to the Investor Member.

**Act:** The Virginia Limited Liability Company Act or any corresponding provision or provisions of succeeding law, as it or they may be amended from time to time.

**Additional Capital Contribution:** An Installment, or any portion thereof, of the Investor Member's Capital Contribution to the Company, the due date of which is subsequent to the Admission Date.

**Additional Capital Contribution Due Date:** Five (5) days after receipt by the Investor Member of the Additional Capital Contribution Notice, as applicable.

**Additional Capital Contribution Notice:** The Notice to be delivered to the Investor Member by the Managing Member stating the date on which any Additional Capital Contribution is due, the amount of the Additional Capital Contribution and, in reasonable detail, the manner of calculation thereof and including the Notice Certifications.

**Adjusted Capital Account Deficit:** With respect to a Member, the deficit balance, if any, in the Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts that such Member is obligated to restore pursuant to any provision of this Agreement, is otherwise treated as being obligated to restore under Treasury Regulation Section 1.704-1(b)(2)(ii)(c), or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

**Admission Date:** The date on which the Investor Member is admitted to the Company, which shall be deemed to be the execution of this Agreement by all parties.

**Affiliate:** As to any Member: (i) any such Member or member of his Immediate Family; (ii) the legal representative, successor or assignee of, or any trustee of a trust for the benefit of, any such Member or member of his Immediate Family; (iii) any entity of which a majority of the voting interests is owned by any one or more of the Persons referred to in the preceding clauses (i) and (ii); (iv) any officer, director, trustee, employee, stockholder (ten percent (10%) or more) or partner of any Person referred to in the preceding clauses (i), (ii) and (iii); and (v) any Person directly or indirectly controlling (ten percent (10%) or more), or under direct or indirect common control with, any Person referred to in the preceding clauses (i), (ii), (iii), or (iv).

**Agreement:** This First Amended and Restated Operating Agreement of the Company and all of the exhibits attached hereto and made a part hereof, as amended and in effect from time to time.

**AIA:** American Institute of Architects.

**Appraised Value:** The value determined in the manner provided in Section 14.01.

**Architect:** J. Price Architecture.

**Authority:** Industrial Development Authority of the County of Prince William, Virginia.

**Authorized Signatory:** The meaning provided in Section 5.01(d) hereof.

**Available Low-Income Housing Credit:** The Credits allocated to the Investor Member by the Company pursuant to the Projections, the Revised Projections or the Company's tax return, as applicable.

**Break-even:** Any period, during which all gross revenue received from the normal operations of the Company, including the proceeds of rental interruption insurance but specifically excluding any funds provided from the reserves established pursuant to Exhibit A-6 to this Agreement or Loan proceeds, equals or exceeds all Project Expenses. For purposes of determining Break-even, income received and Project Expenses paid during the Break-even period but attributable to periods outside the Break-even period shall be excluded or allocated in accordance with generally accepted accounting principles, as appropriate. Additionally, Project Expenses shall include, pro rata on an annualized basis, all expenditures actually accrued during the Break-even period, including those of a seasonal nature, which reasonably might be expected to be incurred on an unequal basis during a full annual period of operation.

**Bridge Lender:** Bonaventure Wealth Fund, LLC, a Virginia limited liability company.

**Bridge Loan:** Loan in the original principal amount of Four Million Dollars made by the Bridge Lender to the Company.

**Bridge Loan Note:** Promissory Note in the amount of the Bridge Loan made by the Company payable to the Bridge Lender.

**Buildings:** collectively, the ten (10) buildings consisting of two hundred and nine (209) Units to be rehabilitated as part of the Project on the Company Property.

**Capital Account:** The capital account maintained by the Company for each Member, determined in accordance with Section 7.01.

**Capital Contribution:** The total amount of cash or any cash equivalents or other property contributed or agreed to be contributed to the Company by each Member, including all adjustments thereto, as provided in this Agreement and Exhibit A. Any reference in this Agreement to the Capital Contribution of a substituted Member shall include all Capital Contributions previously made by any predecessor or former Member in respect of the Interest acquired by the substituted Member, subject to all adjustments thereto pursuant to this Agreement.

**Capital Proceeds:** Sale Proceeds and Refinancing Proceeds.

**Capital Transaction Fee:** The one percent (1%) fee payable to Managing Member's Affiliate in connection with the sale of the Property or refinance of the Loans.

**Cash Flow:** The amount, determined for any Fiscal Year or portion thereof, equal to the excess, if any, of

- (a) Effective Gross Income, over
- (b) Project Expenses.

Cash Flow shall not be reduced by payments of any items described in the preceding clause (b) made from the proceeds of any loans, from condemnation or insurance proceeds or directly from any reserve in accordance with the terms of this Agreement, or by depreciation and amortization taken into account for federal income tax purposes.

***Certificate:*** The Articles of Organization for the Company that is prepared and filed in accordance with the Act, as such Certificate may be amended from time to time.

***Code:*** The Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of succeeding law.

***Company:*** BWF Glen Arbor, LLC, a limited liability company formed under and pursuant to the Act.

***Company Administrative Fee:*** The fee payable to the Managing Member pursuant to that certain Company Administrative Fee Agreement by and between the Company and the Managing Member dated on or about the date hereof.

***Company Property:*** The Company's fee simple interest in the land and improvements comprising a project known as Glen Arbor Apartments, which will, upon completion of construction and rehabilitation, contain two hundred and nine (209) Units in ten (10) buildings located at 1901 Stevens Rd, Woodbridge, VA 22191, the legal description and street address of which is set forth on Exhibit B attached and made a part hereof, together with such additions or improvements thereto as may hereafter be acquired by the Company in accordance with this Agreement.

***Completion Date:*** The later of:

(a) The date on which the Company has completed the rehabilitation/construction of the buildings substantially in accordance with the relevant Project Documents, approved by the Investor Member and any construction consultant engaged by the Investor Member and evidenced by a certificate prepared and executed by the Architect indicating that construction and/or rehabilitation of the buildings has been completed in accordance with the relevant Project Documents, except for punch list items that are not material and do not impede the rental of the space in the buildings on a full rent paying basis, provided the Company has furnished funds or cash equivalents in escrow to provide for the completion of such punch list items; and

(b) If issued by the applicable governmental authority, the receipt of a permanent, or if necessary, temporary certificate of occupancy for the buildings comprising the Company Property post rehabilitation/construction.

***Compliance Period:*** The period specified in Section 42(i)(1) of the Code, as applicable to the Project.

***Consent of the Managing Member:*** The written consent or approval of the Managing Member, which shall be obtained prior to the taking of any action for which it is required hereunder. If there is more than one Managing Member, Consent of the Managing Member shall

require the affirmative consent of Managing Members holding at least a majority of the aggregate Percentage Interests of the Managing Members.

***Consent of the Investor Member:*** The written consent or approval of the Investor Member, which shall be obtained prior to the taking of any action for which it is required hereunder. If there is more than one Investor Member, Consent of the Investor Member shall require the affirmative consent of Investor Members holding at least a majority of the aggregate Percentage Interests of the Investor Members. The Consent of the Investor Member shall not be unreasonably withheld, conditioned or delayed, unless the Consent is specifically stated in this Agreement to be at the sole discretion of the Investor Member.

***Cost Certification:*** Certification by the Accountants, as soon as practicable after the Completion Date, of the costs of the Project, based on the accounting records and any other documentation deemed appropriate by the Accountants.

***Credits:*** The Low-Income Housing Tax Credit provided for under Section 42 of the Code, including the 4% new construction credit, as applicable.

***Credit Adjuster Payment:*** Payments to the Investor Member made by the Managing Member pursuant to Section 3.03.

***Credit Deficiency:*** The amount by which the Credits received by the Investor Member are less than the Available Low-Income Housing Credit based on the Projections as adjusted by any reductions in Capital Contributions and any Credit Adjuster Payment(s) pursuant to Sections 3.03(b)(i),(iii),(iv), (vi), (vii) and (viii). For this purpose, the Investor Member shall be considered to have received Credits in the amount allocated to the Investor Member on the Company's federal income tax returns reduced by: (i) any negative adjustment of the Credits reported on the Company's tax return that is made by the IRS or a court in a Final Determination; and (ii) the amount of any recapture or claimed recapture of such Credits other than recapture which is a result of a disposition of all or a portion of the Interest of such Investor Member by such Investor Member or by any other action of the Investor Member.

***Credit Period:*** The period specified in Section 42(f)(1) of the Code as applicable to the Project.

***Credit Units:*** The two hundred and nine (209) Units that will be operated in a manner so as to qualify as low-income units within the definition of Section 42(i)(3) of the Code.

***Designated Proceeds:*** The sum of: (i) proceeds of the Loans and any grants; (ii) insurance proceeds arising out of casualties or condemnation as available from time to time; (iii) net rental income prior to the Completion Date; and (iv) Capital Contributions which are to be used for the purchase or rehabilitation of the Project.

***Development Advance:*** The advances to the Company to be made by the Managing Member in the amounts and under the circumstances provided in Section 5.13(b).

***Development Fee:*** The fees pursuant to Section 4 of the Development Services Agreement attached hereto as Exhibit C and payable to the Person indicated on Exhibit A-4.



***Effective Gross Income:*** All gross revenue collected from the normal operations of the Company (including Section 8 payments under the HUD Documents but excluding Capital Proceeds) plus, with the Consent of the Investor Member (in its reasonable discretion), any funds no longer deemed necessary for the efficient operations of the Company by the Managing Member released from Company reserves that would otherwise have been included in Cash Flow at the time such funds were placed in reserve, which are deposited into the Company's general accounts.

***Environmental Hazard:*** Any hazardous or toxic substance, waste or material, or any other substance, pollutant, or condition that poses a risk to the environment, including, but not limited to: (i) any "hazardous substance" as that term is defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq. as amended; (ii) petroleum in any form, lead-based paint, asbestos, urea formaldehyde insulation, methane gas, polychlorinated biphenyls ("PCBs"), radon, mold, or lead in drinking water, except for ordinary and necessary quantities of office supplies, cleaning materials and pest control supplies stored in a safe and lawful manner and petroleum products contained in motor vehicles; (iii) any underground storage tanks; (iv) accumulations of debris, mining spoil or spent batteries, except for ordinary garbage stored in receptacles for regular removal; or (v) any other condition that could result in liability for an owner or operator of the Project under any federal, state, local or common law, rule, regulation, ordinance or precedent pertaining to the environment.

***Environmental Laws:*** (i) The Clean Air Act; (ii) the Clean Water Act; (iii) the Resource Conservation and Recovery Act; (iv) the Toxic Substance Control Act; (v) the Safe Drinking Water Control Act; (vi) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq. as amended; (vii) the Occupational Safety and Health Act; (viii) the Residential Lead-Based Paint Hazard Reduction Act of 1992, including the Lead-Based Paint Poisoning Prevention Act and the implementing regulations at 24 CFR, part 35; and (ix) any other federal, state, local or common law, regulation, rule, ordinance, precedent or other requirement pertaining to the environment, and applicable to the Project.

***Environmental Reports:*** Collectively, the following reports prepared by EBI Consulting, (i) the Phase I environmental site assessment report dated November 4, 2016, (ii) Limited Microbial Assessment dated December 7, 2016, (iii) Moisture Management Plan dated December 8, 2016 and (iv) Asbestos Operations and Management Plan dated November 29, 2016.

***Event of Bankruptcy:*** With respect to any Person:

(a) The entry of a decree or order for relief by a court having jurisdiction in respect of such Person in an involuntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) for such Person or for any substantial part of his property, or ordering the winding-up or liquidation of his affairs, and the continuance of any such decree or order unstayed and in effect for a period of one hundred twenty (120) consecutive days;

(b) The commencement by such Person of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or similar law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) for such person or for any substantial part of his property, or the making by such Person of any assignment for the benefit of creditors, or the taking of action by such Person in furtherance of any of the foregoing; or

(c) The commencement against such Person of an involuntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy insolvency or similar laws which has not been vacated, discharged or bonded within ninety (90) consecutive days.

***Extended Use Agreement:*** The Extended Use Agreement and Declaration of Restrictive Covenants to be entered into between the Company and the Authority as required pursuant to Section 42(h)(6) of the Code.

***Extended Use Period:*** The period specified in Section 42(h)(6)(D) of the Code.

***Fair Market Value:*** A calculation, reviewed by the Accountants, of the amount the Members would receive upon a distribution pursuant to Article XII upon the liquidation of the Company after the sale of all of the Company Property by the Company for its Appraised Value and allocation of the resulting gain or loss pursuant to Section 7.02.

***Fee Agreements:*** The fee agreements of even date herewith described on Exhibit A-4, and which are attached hereto as exhibits.

***Final Determination:*** With respect to any issue, the earliest to occur of: (i) a decision, judgment, decree, or other order being issued by any court of competent jurisdiction, which decision, judgment, decree, or other order has become final (i.e., all allowable appeals requested by the parties to the action have been exhausted or the time for such appeals has expired); (ii) the IRS or the state agency having entered into a binding agreement with the Company or having reached a final administrative or judicial determination which, whether by law or agreement, is not subject to appeal; or (iii) the expiration of the applicable statute of limitations.

***First Priority Mortgage Lender:*** Prudential Huntoon Paige Associates, LLC.

***First Priority Mortgage Loan Documents:*** With respect to the First Priority Mortgage Loan as defined in Exhibit A-3, any and all documents executed by the Company in connection with such Loan, including, without limitation, any of the following: loan applications, loan commitments, notes, mortgages, regulatory agreements, building loan agreements, security agreements, and financing statements.

***Fiscal Year:*** The calendar year or such other year that the Company is required by the Code to use as its taxable year.

***Forecasted Available Low-Income Housing Credit:*** The Credits estimated to be allocated to the Investor Member by the Company pursuant to the Projections attached hereto as Exhibit G.

***Fulton:*** Fulton Financial Corporation, a Pennsylvania corporation and a financial holding company.

***Funding Loan:*** The proceeds received by the Authority from its issuance of its Housing Revenue Bonds, Series 2017A (Glen Arbor Apartments Project) in the original maximum principal amount of \$21,600,000.

***Gain:*** The income and gain of the Company for federal income tax purposes arising from a sale or other disposition of all or any portion of the Company Property. If the value at which an asset is carried on the books of the Company pursuant to the capital account maintenance rules of Treasury Regulation Section 1.704-1(b) differs from its adjusted tax basis and gain is recognized from a disposition of such asset, the gain shall be computed by reference to the asset's book basis rather than its adjusted tax basis.

***Guarantor:*** Together, the Managing Member and Bonaventure Wealth Fund, LLC.

***Guaranty Agreements:*** The guaranty agreements of even date herewith described on Exhibit A-4, and which are attached hereto as exhibits.

***Immediate Family:*** With respect to any Person, his or her spouse, children, including adopted children, stepchildren, parents, parents-in-law, nephews, nieces, brothers, sisters, brothers-in-law, and sisters-in-law, each whether by birth, marriage, or adoption, as well as any inter vivos trusts created for the benefit of such Person or any of the foregoing.

***Income from Operations to Project Expenses Ratio:*** the ratio of all gross revenue received from the normal operations of the Company, including the proceeds of rental interruption insurance but specifically excluding any funds provided from the reserves established pursuant to Exhibit A-6 to this Agreement or Loan proceeds to Project Expense.

***Installment:*** An installment of the Investor Member's Capital Contribution, which is due as set forth in Exhibit A-1.

***Interest:*** As to any Member, such Member's right, title, and interest in and to any and all assets, distributions, losses, profits and shares of the Company, whether cash or otherwise, and any other interests and economic incidents of ownership whatsoever of such Member in the Company.

***Investor Member:*** Fulton Bank, N.A., a national banking association, and any Person who becomes a Substitute Investor Member as provided herein, in each such person's capacity as an investor member. If there is more than one investor member of the Company, the term "Investor Member" shall refer collectively to all such investor members.

***IRS:*** The Internal Revenue Service.

***Lease-Up Period:*** The period commencing on the PIS Date and ending when the Project achieves Qualified Occupancy for all Credit Units.

***Letters of Credit:*** Collectively, one or more standby letters of credit in a stated amount in the aggregate at any time outstanding not to exceed Nine Hundred Twenty-Four Thousand Two Hundred Thirty-Nine and 33/100 Dollars (\$924,239.33) issued by EagleBank for the benefit of the Company in favor of First Priority Mortgage Lender, HUD and/or Prince William County, Virginia, as applicable.

***Letters of Credit Loan Documents:*** Any and all documents executed by the Company in connection with the issuance of the Letters of Credit, including, without limitation, that certain Reimbursement Agreement by and among the Company, Bonaventure Wealth Fund, LLC and EagleBank.

***LIH Adjustment Limit:*** The amount determined as of any relevant date by which the Development Fee exceeds the aggregate of any payments previously made by the Company and the Managing Member pursuant to Section 3.03.

***Loan Documents:*** With respect to each Loan, any and all documents executed by the Company in connection with such Loan, including, without limitation, any of the following: loan applications, loan commitments, notes, mortgages, regulatory agreements, building loan agreements, security agreements, and financing statements.

***Loans:*** The loans shown on Exhibit A-3, and any other loans made to the Company with the Consent of the Investor Member that are secured by the Project.

***Loss:*** The loss of the Company for federal income tax purposes arising from a sale or other disposition of all or any portion of the Company Property. If the value at which an asset is carried on the books of the Company pursuant to the capital account maintenance rules of Treasury Regulation Section 1.704-1(b) differs from its adjusted tax basis and loss is recognized from a disposition of such asset, the loss shall be computed by reference to the asset's book basis rather than its adjusted tax basis.

**Management Agent:** Bonaventure Property Management Services, LLC, or such other management agency that is acceptable to the Investor Member.

**Managing Member:** BWF Glen Arbor MM, LLC, and any additional or substitute managing members of the Company named in any duly adopted amendment to this Agreement. If there is more than one managing member, the term "Managing Member" shall refer collectively to all such managing members.

**Material Breach:** a breach of the covenants, representations or obligations hereunder which has or may have a material adverse effect upon the Company, the Investor Member or the Project.

**Maximum Operating Deficit Loan Cap:** \$850,000.

**Member or Members:** The Managing Member and the Investor Member, either individually or collectively.

**Member Nonrecourse Debt:** Any Company liability to the extent the liability is nonrecourse for purposes of Treasury Regulation Section 1.1001-2 and a Member (or related person within the meaning of Treasury Regulation Section 1.752-4(b)) bears the economic risk of loss under Treasury Regulation Section 1.752-2.

**Minimum Gain:** The amount determined by computing for each Nonrecourse Liability and Member Nonrecourse Debt, the amount of Gain, if any, that would be realized by the Company if it disposed of the asset securing such liability for no consideration other than full satisfaction of the liability, and by then aggregating the separately computed Gains. For purposes of determining the amount of such Gain with respect to a particular Nonrecourse Liability or Member Nonrecourse Debt, the adjusted basis for federal income tax purposes (or its adjusted book value if it is carried on the Company's books, maintained in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv), at a value different from its adjusted tax basis) of the asset securing the liability shall be allocated among all the liabilities that the asset secures in the manner set forth in Treasury Regulation Section 1.704-2(d)(2)(ii) (or successor provisions). It is the intent that Minimum Gain shall be computed in accordance with Treasury Regulation Section 1.704-2.

**Mortgagees:** The payees under the Loans, together with any successors or assigns in such capacity.

**Mortgage Notes:** The notes executed by the Company in favor of the Mortgagees for each of the Loans.

**Mortgages:** The mortgages or deeds of trust encumbering the Company Property that secure the Mortgage Notes.

**Net Cash Flow:** The amount, determined for any Fiscal Year or portion thereof, equal to the excess, if any, of

- (a) Cash Flow, over
- (b) the aggregate amount of the fees and other expenses payable from Cash Flow in such year set forth on Exhibit A-4.

**Net Losses:** The net loss of the Company for federal income tax purposes for each taxable year, calculated without regard to Gain or Loss and without regard to those items that are specially allocated in accordance with Regulatory Allocations or otherwise pursuant to Section 7.03; *provided, however*, that in determining net loss (i) any tax-exempt income received by the Company shall be included as an item of gross income, (ii) any expenditure of the Company described (or treated under Treasury Regulation Section 1.704-1(b)(2)(iv)(b) as described) in Section 705(a)(2)(B) of the Code shall be treated as a deductible expense, (iii) if the fair market value on the date that the asset is contributed to the Company (or if the basis of such asset for book purposes is adjusted under the Treasury Regulations, such adjusted book basis) differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, the amount for depreciation, amortization and other cost recovery deductions shall be equal to an amount which bears the same ratio to such beginning fair market value (or adjusted book basis) as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis, and (iv) if the value at which an asset is carried on the books of the Company differs from its adjusted tax basis and gain or loss is recognized from a disposition of such asset, the gain or loss shall be computed by reference to the asset's book basis rather than its adjusted tax basis.

**Net Profits:** The taxable income of the Company for federal income tax purposes for each taxable year, calculated without regard to Gain or Loss and without regard to those items which are specially allocated in accordance with the Regulatory Allocations or otherwise pursuant to Section 7.03; *provided, however*, that in determining taxable income (i) any tax-exempt income received by the Company shall be included as an item of gross income, (ii) any expenditure of the Company described (or treated under Treasury Regulation Section 1.704-1(b)(2)(iv)(b) as described) in Section 705(a)(2)(B) of the Code shall be treated as a deductible expense, (iii) if the fair market value on the date that the asset is contributed to the Company (or if the basis of such asset for book purposes is adjusted under the Treasury Regulations, such adjusted book basis) differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, the amount for depreciation, amortization and other cost recovery deductions shall be equal to an amount which bears the same ratio to such beginning fair market value (or adjusted book basis) as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis, and (iv) if the value at which an asset is carried on the books of the Company differs from its adjusted tax basis and gain or loss is recognized from a disposition of such asset, the gain or loss shall be computed by reference to the asset's book basis rather than its adjusted tax basis.

***Nonrecourse Liability:*** Any liability to the extent that no Member or related person bears (or is deemed to bear) the economic risk of loss within the meaning of Treasury Regulation Section 1.752-2.

***Notice:*** A writing containing the information required by this Agreement and sent by registered or certified mail, postage prepaid, return receipt requested, or sent by commercial delivery service, by hand delivery, or by email, paid for by the sender, to a Member at the last address or addresses designated for such purpose by such Member in Section 15.02 or as provided therein, the date of receipt of such registered mail or certified mail or the date of actual receipt of such writing by commercial delivery service, hand delivery or email (with regard to email, a hard copy of such notice shall also be delivered in accordance with the terms above), being deemed the date of such Notice.

***Notice Certifications:*** The certifications described in Section 3.02(c) and more fully set forth in Exhibit A-7 required to be provided by the Managing Member to the Investor Member in the Additional Capital Contribution Notices.

***Operating Deficit:*** With respect to any period of time beginning after the PIS Date, the amount by which Project Expenses exceed all gross revenue received from normal operations of the Company, including government subsidies, rental interruption insurance proceeds and insurance proceeds resulting from casualty or condemnation during such periods.

***Operating Deficit Contribution:*** A capital contribution to the Company by the Managing Member, which shall be required under the circumstances described in Section 5.14 and shall be treated as Capital Contributions of the Managing Member.

***Operating Deficit Loan:*** A loan to the Company by the Managing Member, which shall be required under the circumstances described in Section 5.14 and shall be an interest-free, unsecured loan by the Managing Member.

***Operating Reserve:*** The reserve to be funded in accordance with Section 5.17.

***Operating Reserve Amount:*** The amount of the Operating Reserve shown on Exhibit A-2.

***Percentage Interest:*** As to any Member, the percentage in the Company shown opposite the name of such Member in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

***Person:*** An individual or entity, such as, but not limited to, a corporation, general partnership, joint venture, limited partnership, limited liability company, trust, cooperative, or association and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so requires.

***PIS Date:*** The date on which the Project is placed into service.

**Prime Rate:** The posted prime rate as published by Fulton Bank, N.A., a national banking association, from time to time.

**Project:** The aggregate of all of the individual buildings and dwelling units and the common areas and facilities appurtenant thereto located in or around the Company Property.

**Project Documents:** The construction contracts, agreements with architects and engineers, the Fee Agreements, the Guaranty Agreements, the Extended Use Agreement, the property management agreement, this Agreement and all exhibits hereto, and any other document or instrument executed in connection with any of the aforesaid documents.

**Project Expenses:** All costs and expenses of any type incurred on a cash basis, and not otherwise accounted for as part of the Project construction budget, incident to the equipping, financing, ownership and operation of the Project after the PIS Date (for this purpose, actual expenditures during the period at issue, including those of a seasonal nature, which might be expected to be incurred on an unequal basis during a full annual period of operation shall be deemed to be incurred pro rata on an annual basis), including the funding of the Replacement Reserve, payments of fees to the Members or their Affiliates (other than fees, the payment of which is contingent on the amount of Cash Flow or Capital Proceeds including but not limited to the fees due to the Managing Member pursuant to the Company Administrative Fee Agreement), taxes, any required payments of principal and interest on any Loans that are not contingent on the amount of Cash Flow or Capital Proceeds and any other Company loans or obligations (including loans from Members except for Credit Adjuster Payments) and the costs of capital improvements to the Company Property incurred after the PIS Date and not funded or to be funded from the Company's Replacement Reserve (described on Exhibit A-6). Project Expenses shall not include any taxes or costs to be paid from the Insurance and Tax Escrow but shall include any contributions to the Insurance and Tax Escrow required by the First Priority Mortgage Loan Documents or this Agreement.

**Projections:** The projections of the anticipated results of the operation of the Company based on information provided by the Managing Member and reviewed by the Accountants attached hereto as Exhibit G to this Agreement.

**Qualified Occupancy:** The occupancy of a Credit Unit by a Qualifying Tenant or the state of being held for occupancy by a Qualifying Tenant after such Unit becomes vacant subsequent to its rental to a Qualifying Tenant.

**Qualifying Tenant:** A tenant whose income does not exceed the relevant limit set forth in Section 42(g)(1) of the Code.

**Recapture Period:** The time period during which the Credits are subject to recapture pursuant to the Code.

**Refinancing Proceeds:** The excess of the gross proceeds of any borrowings by the Company, other than the Loans, over the sum of the following to the extent paid out



of such gross proceeds: (i) any amounts disbursed to repay then existing loans of the Company and to pay and provide for all debts and obligations of the Company then to be paid or which are otherwise then due (not including, however, any Operating Deficit Contributions or Operating Deficit Loans made or Credit Adjusters deemed to be made to the Company by the Managing Member), (ii) all reasonable expenses of such borrowings, including, without limitation, all commitment fees, brokers' commissions, attorneys' fees and the Capital Transaction Fee, (iii) all amounts paid to improve the Company Property or for any other purpose in order to satisfy conditions to or established in connection with such borrowings, and (iv) any amounts used to meet the operating expenses of the Company Property and to fund the Replacement Reserve. Refinancing Proceeds shall also include any funds that would otherwise have been included in Refinancing Proceeds at the time such funds were placed in reserve and that are no longer deemed necessary for the efficient operations of the Company by the Managing Member and released from such Company reserves.

**Regulatory Allocations:** The special allocations set forth in Sections 7.03(a), (b), (c), (d), (e), and (f) which are intended to comply with certain requirements of Treasury Regulation Sections 1.704-1(b) and 1.704-2.

**Release Date:** the latter of (a) the fifth anniversary of the Stabilization Date, or (b) the date the Project has achieved an Income from Operations to Project Expenses Ratio of at least 1.20:1.00 for the twelve month period immediately prior to such date or (c) the date the Project has achieved an Income from Operations to Project Expenses Ratio of at least 1.20:1.00 for each of the 3 months immediately prior to such date. Notwithstanding the foregoing, if, each of the items in (a), (b) and (c) have been satisfied on a date and the balance in the Operating Reserve is less than \$1,140,139 on such date, the Release Date shall be delayed until such time as the balance in the Operating Reserve is equal to or greater than \$1,425,174.

**Replacement Reserve:** The reserve to be funded in accordance with Section 5.17.

**Revised Projections:** The projections of the anticipated results of the operation of the Company to be prepared by the Accountants after the Authority has issued a final Form 8609 with respect to one-hundred percent (100%) of the Credit Units and all Units have been placed in service but prior to the time of payment of the Ninth Installment of the Investor Member's Capital Contribution, including an internal rate of return calculated in the same manner of the internal rate of return calculated in the Projections and reflecting adjustment or payment, the actual timing of the receipt of Credits and the actual amount and timing of Capital Contributions, adjustments or payments.

**Sale Proceeds:** The excess of all cash receipts and other consideration arising from the sale or other disposition of all or any portion of the Company Property or any proceeds realized from condemnation, insured casualty, or insured title defect, but excluding proceeds from rental interruption insurance or a temporary condemnation in the nature of a lease, if any, over the sum of the following to the extent paid out of such cash receipts and other consideration: (i) the amount of cash disbursed or to be disbursed in connection with or as an expense of such sale or other disposition, (ii) the amount

necessary for the payment of all debts and obligations of the Company arising from or otherwise related to such sale or other disposition or to which the Company Property is subject and which are otherwise then due (not including, however, any Operating Deficit Contributions or Operating Deficit Loans made or Credit Adjuster Payments deemed to be made to the Company by the Managing Member), and (iii) any amounts used to meet the operating expenses of the Company Property and to fund the Replacement Reserve. Sale Proceeds shall also include any funds that would otherwise have been included in Sale Proceeds at the time such funds were placed in reserve and that are no longer deemed necessary for the efficient operations of the Company by the Managing Member and released from such Company reserves.

**Stabilization:** Such time as the Project has placed all Units in service and achieved an Income from Operations to Project Expenses Ratio of at least 1.10:1.00 on a seasonally adjusted accrual accounting basis (including required reserve contributions and debt service) for a period of three (3) consecutive months.

**Stabilization Date:** The first date of the calendar month after which Stabilization has been achieved.

**State:** Commonwealth of Virginia.

**Substitute Investor Member:** Any Person admitted from time to time to the Company as a Investor Member in accordance with the provisions of Article X hereof and so reflected on Exhibit A, as such Exhibit A may be amended from time to time in accordance with this Agreement.

**Tax Matters Member:** The Managing Member.

**Term:** The period of time the Company shall continue in existence as stated in Section 1.07.

**Title Policy:** That certain title policy issued by Fidelity National Title Insurance Company in a commercially reasonable amount equal to the sum of the Loans and the Investor Member's Capital Contributions (the "**Owner's Title Policy Amount**"), in favor of the Company and in force as of the date hereof insuring the Company's title to the Company Property.

**Treasury Regulations:** The temporary and final regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

**Units:** The individual dwelling units of residential rental housing located on the Company Property.

**Upward Adjustment Amount:** The amount determined under Section 3.03(b)(i).

## 2.02 Rules of Construction

(a) Unless the context clearly indicates to the contrary, the following rules apply to the construction of this Agreement:

(i) Words importing the singular number include the plural number and words importing the plural number include the singular number;

(ii) Words of the masculine gender include correlative words of the feminine and neuter genders, and vice-versa;

(iii) The table of contents and the headings or captions used in this Agreement are for convenience of reference and do not constitute a part of this Agreement, nor affect its meaning, construction, or effect;

(iv) Words importing persons include any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, or government or agency or political subdivision thereof;

(v) Any reference in this Agreement to a particular "Article," "Section," or other subdivision shall be to such Article, Section, or subdivision of this Agreement unless the context shall otherwise require;

(vi) Each reference in this Agreement to an agreement or contract shall include all amendments, modifications, and supplements to such agreement or contract unless the context shall otherwise require; and

(vii) When any reference is made in this document or any of the schedules or exhibits attached hereto to the Agreement, it shall mean this Agreement, together with all other schedules and exhibits attached hereto, as though one document.

(b) In the event there is more than one Investor Member or more than one Managing Member, the following additional rules of construction shall apply unless otherwise provided:

(i) Allocations to the Managing Member or Investor Member, as applicable, of Gain, Net Profits, Net Losses, Loss and credits under Article VII, and distributions of Net Cash Flow and Capital Proceeds under Article VIII shall be further allocated and/or distributed between or among each of the Managing Members or each of the Investor Members, as applicable, in proportion to the respective Percentage Interests as set forth on Exhibit A of each of the Managing Members or each of the Investor Members, as applicable. Unless otherwise provided herein, no Managing Member shall have a superior right to receive distributions than any other Managing Member and no Investor Member shall have a superior right to receive distributions than any other Investor Member;

(ii) With respect to any matter on which the approval or ratification of the Managing or Investor Members is required or may be given, such approval or ratification shall not be deemed to have been given unless given by Consent of the Managing or Investor Members, as the case may be;

(iii) With respect to any matter on which the approval or ratification of the Managing Member or Investor Members is required or may be given, each Member, as the case may be, shall be entitled to vote; and

(iv) Unless otherwise provided herein, the Managing Member's obligation to make Credit Adjuster Payments pursuant to Section 3.03, Development Advances pursuant to Section 5.13, Operating Deficit Contributions or Operating Deficit Loans pursuant to Section 5.14, and the Managing Member's obligation to purchase the Investor Member's Interest pursuant to Section 5.16, shall be joint and several as to each Managing Member.

### **ARTICLE III - COMPANY INTERESTS AND SOURCES OF FUNDS**

#### **3.01 Identity of Members and Percentage Interests**

The names and business addresses of the Managing Member and the Investor Member are as identified on Exhibit A-5, as such exhibit may be amended from time to time in accordance with this Agreement and each such Member has the Percentage Interest indicated next to its name.

#### **3.02 Capital Contributions**

(a) *Managing Member.* Subject to the provisions of this Section 3.02, the Managing Member shall be obligated to (and does hereby covenant and agree to) contribute to the capital of the Company, by wire transfer or other form of available funds, the aggregate amount set forth after the Managing Member's name on Exhibit A no later than the Admission Date. In addition, in exchange for its Interest, the Managing Member agrees to perform the following services:

(i) Syndication Services. The Managing Member will perform services in connection with syndication and sale of the Investor Member Interest to the Investor Member, including providing the Investor Member with all relevant information; preparing a financial plan to admit the Investor Member, conducting due diligence on behalf of the Company in connection with the admission of the Investor Member, and preparing appropriate disclosure documents related to the admission of the Investor Member in compliance with all federal, state and local securities laws.

(ii) Financing Services. The Managing Member will perform services in connection with permanent financing, including obtaining

commitments for all permanent financing for the Project, including providing information to prospective lenders; negotiating final loan commitments; coordinating all loan closing checklist requirements with lenders; and monitoring loan requirements during the term of the loans.

(b) Investor Member.

(i) Subject to the provisions of this Section 3.02, the Investor Member shall be obligated to (and does hereby covenant and agree to) contribute to the capital of the Company, by wire transfer or other form of available funds, the aggregate amount set forth after the Investor Member's name on Exhibit A. The Investor Member shall pay its Capital Contribution in Installments, in the amounts and at the times indicated on Exhibit A-1; *provided, however*, that the actual order of such Installments may vary based upon the completion of the Project and shall be due and payable upon satisfaction of the relevant event on Exhibit A regardless of timing, and provided, further, that the date for payment of any Additional Capital Contribution shall be the Additional Capital Contribution Due Date, which may be deferred in accordance with Section 3.02(b)(iii). Except as provided in this Section 3.02(b), the Investor Member shall not be obligated to make any Capital Contributions to the Company. All required Capital Contributions shall be subject to any applicable adjustments. The Investor Member shall, however, have the right to make further Capital Contributions to the Company, including the right to agree to make a limited or unlimited contribution to the extent necessary to eliminate a deficit in its Capital Account. This right to make further Capital Contributions or to agree to make a deficit restoration shall be optional to the Investor Member and no party shall be entitled to force the Investor Member to exercise such right.

(ii) *Notice Certifications.* The Managing Member shall deliver an Additional Capital Contribution Notice to the Investor Member which shall include the Notice Certifications in the exact form attached as Exhibit A-7 not more than forty (40) days and not less than five (5) days in advance of the due date of each Additional Capital Contribution. The delivery and accuracy of the Additional Capital Contribution Notice shall be a condition precedent to the Investor Member's obligation to fund any installment of the Investor Member's Additional Capital Contribution.

(iii) *Deferral of Additional Capital Contribution Due Date.* Should the Managing Member fail to certify that each of the relevant Notice Certifications is materially true and correct in its Additional Capital Contribution Notice, and to reconfirm the material accuracy of the relevant Notice Certifications as of the due date of any given Additional Capital Contribution, or should any of the relevant Notice Certifications be in fact materially untrue, the Additional Capital Contribution Due Date shall be deferred until five (5) days after such time as the Managing

Member is able to and does certify that each of the relevant Notice Certifications is materially true, and each of the relevant Notice Certifications is in fact materially true, and failure to pay such Additional Capital Contribution prior to such time shall not constitute a default of the Investor Member.

(iv) *Discretion to Waive Preconditions.* The Investor Member, in its sole and absolute discretion, may waive, in whole or in part, any one or more preconditions to the payment of any Additional Capital Contribution and may accelerate or otherwise pay all or a portion of the amount of such Additional Capital Contribution that would have been due had all of the preconditions been satisfied. The waiver of any precondition, in whole or in part, shall not prevent the Investor Member from asserting the failure of the precondition as a defense against the requirement of paying the remainder of an Additional Capital Contribution or any other Additional Capital Contribution. Upon request from the Investor Member, the Managing Member, with the assistance of the Accountants, shall provide the information necessary for the Investor Member to determine the necessity and amount of an acceleration of any Additional Capital Contribution.

(v) *Default.* In the event that the Investor Member fails to pay any portion of any Additional Capital Contribution (as such Additional Capital Contribution may be adjusted in accordance with Section 3.03) by the Additional Capital Contribution Due Date (as the same may be deferred pursuant to Section 3.02(b)(iii)) and any such failure is not cured within ten (10) business days after written Notice of such failure, the Investor Member shall be deemed to be in default of its obligations under this Agreement and the Managing Member shall be entitled to take all actions available to the Company, including, without limitation, instituting a suit at law or in equity; *provided, however*, in the event of a Final Determination in favor of the Company, the defaulting Investor Member shall pay to the Company all Additional Capital Contributions plus expenses of collection including reasonable attorney's fees and court costs and accrued interest at the Prime Rate plus two percent (2%) thereon from the date of default until payment is made. Such payment, if made within five (5) business days of a Final Determination, shall constitute the sole remedy of the Company under this Section 3.02. Notwithstanding any provisions of Section 3.02, upon payment of all amounts owed pursuant to the terms of this Section 3.02(b)(v) as a result of the default of the Investor Member, and provided such payment is received prior to execution of a contract by a non-Affiliate to purchase the defaulting Investor Member's Interest (which contract shall not be executed until after 10 days after the Final Determination in favor of the Company), the Investor Member shall be fully reinstated to its former Interest and Percentage Interest in the Company, including, but not limited to, the defaulting Investor Member's former share of distributions, as though a default under this Section

3.02(b)(v) had not occurred. In the event of a Final Determination in favor of the Investor Member resulting from the Managing Member's actions under this Section 3.02(b)(v), the Managing Member shall pay to the Investor Member reasonable attorney's fees and court costs incurred by the Investor Member as a result of the Managing Member's actions under this Section 3.02(b)(v).

(vi) *Sale of Investor Member's Interest.* Subject to the provisions of Section 3.02(b)(v) in the event of a default pursuant to Section 3.02(b)(v), the Company may offer to sell the defaulting Investor Member's Interest first to the non-defaulting Investor Members, and if they do not collectively purchase all of the defaulting Investor Member's Interest, then the balance to any other Person on such commercially reasonable terms and conditions as the Managing Member deems most favorable under the circumstances. Any amount that the Person acquiring the Interest of the defaulting Investor Member shall pay in consideration of the acquisition of such Interest shall be applied in the following order: (i) to the payment of all reasonable fees and expenses incurred by the Company in connection with such sale and the enforcement of this provision including reasonable attorney fees; (ii) to the payment of the Additional Capital Contribution payment and any interest thereon then required to be paid by the defaulting Investor Member; (iii) to the payment, if any, of any future Additional Capital Contributions of the defaulting Investor Member; and (iv) any balance to the Company.

(vii) Obligations of Defaulting Investor Member upon Sale. The obligations of a defaulting Investor Member to the Company shall be extinguished upon completion of the transfer of the defaulting Investor Member's Interest to a purchaser described in Section 3.02(b)(vi); *provided, however*, that the obligation of the defaulting Investor Member to make payments as required under Section 3.02(b)(v) and to fully reimburse the Company for fees and expenses as enumerated in Section 3.02(b)(v)(i) shall only be extinguished by, and to the extent of, the aggregate of payments to be made by the purchaser or purchasers of the defaulting Investor Member's Interest.

(viii) *Rights of Nondefaulting Investor Members.* All rights and benefits of a defaulting Investor Member attributable to such Member's Interest in the Company shall be suspended during the period of default, and such suspension shall terminate on the date of the curing of such default (if such curing is permitted under Section 3.02(b)(v)), or upon the admission of a purchaser of such Interest pursuant to this Section as a Substitute Investor Member. Upon the termination of such defaulting Investor Member's Interest in the Company, all rights and benefits of such defaulting Investor Member attributable to such Member's Interest in the Company shall terminate. If such suspension is in effect at the end of the Company's Fiscal Year, the profits and losses and Credits attributable to

the defaulting Investor Member's Interest during the period of suspension that have not been allocated to such defaulting Investor Member in a tax return filed by the Company shall be allocated to the extent permitted under the Code and the Treasury Regulations thereto and this Agreement, to the non-defaulting Investor Members, pro rata in accordance with their Interests, until the admission of a Substitute Investor Member in place of the defaulting Investor Member.

### **3.03 Adjustments to Capital Contributions**

(a) [Reserved]

(b) Notwithstanding anything to the contrary herein, upon occurrence of any of the events set forth below, the Investor Member's Capital Contribution shall be adjusted, and the Company, Investor Member and Managing Member shall have obligations, as follows:

(i) If the aggregate Available Low-Income Housing Credit is less than the aggregate Forecasted Available Low-Income Housing Credit, then the Eighth Installment of the Investor Member's Capital Contribution shall be reduced by an amount equal to 96.5% of the difference between the aggregate Forecasted Available Low-Income Housing Credit and the aggregate Available Low-Income Housing Credit (see Section 3.03(b)(viii) if the adjustment exceeds the Eighth Installment);

(ii) If the aggregate Available Low-Income Housing Credit is greater than the aggregate Forecasted Available Low-Income Housing Credit, then the Investor Member's aggregate Capital Contribution shall be increased by an amount equal to 96.5% of the difference between the aggregate Available Low-Income Housing Credit and the aggregate Forecasted Available Low-Income Housing Credit; provided, however, that the Investor Member's aggregate Capital Contribution shall not exceed \$11,240,601 unless consented to by the Investor Member in its sole discretion. In the event that there are additional Credits which would otherwise cause the Investor Member's aggregate Capital Contribution to exceed \$11,240,601 or such other amount as may be agreed to by the Investor Member in its sole discretion, then the additional Credits for which the Investor Member is not contributing a Capital Contribution shall be allocated to the Members in accordance with their respective Membership Interests. Said increase shall be payable on the due date of the Eighth Installment (or, if the adjustment under this Section 3.03(b)(ii) is due to an adjustment of the aggregate Available Low-Income Credit upon receipt of approved Form 8609s, the Eighth Installment), or if such increase would cause the Investor Member's aggregate Capital Contribution to exceed \$11,240,601, such excess amount shall reduce the amounts payable to the Investor Member under Section 14.2;



(iii) If there is an acceleration or delay in the receipt of Credits during year one or year two of the Compliance Period from the aggregate Forecasted Available Low-Income Housing Credit as presented in the Projections, there will be an adjustment to the Investor Member's total Capital Contribution. The amount of the adjustment will be the amount required so that the Investor Member's internal rate of return reflecting the actual timing of receipt of the Credits and actual timing of payments of Capital Contributions attributable to Credits as reflected in the Revised Projections, equals the Investor Member's internal rate of return attributable to Credits, as reflected in the Projections (assuming a Capital Contribution attributable to the Credits of \$2,043,746 on the admission date of the Investor Member). For the purposes of determining the internal rate of return calculation for this subclause (iii), the Projections and the Revised Projections shall include a schedule calculating the internal rate of return by including only the Capital Contributions attributable to Credits, and as benefits to the Investor Member only the actual Credits expected to be realized by the Investor Member, and not including taxable income or losses, or any Net Cash Flow or Capital Proceeds. Said adjustment, if positive, shall be made by an Investor Member Capital Contribution no later than the date upon which the Eighth Installment is payable if due at the time of the adjustment, or within fifteen (15) days of determination by Notice of the Managing Member to the Investor Member if the Eighth Installment has been paid. Said adjustment, if negative, shall be a reduction in the Investor Member's Eighth Installment, if still due, and, if necessary, the Seventh Installment, or by a payment by the Company or the Managing Member pursuant to the terms of Section 3.03(b)(viii) hereof. In no case will the Investor Member be required to increase its Capital Contribution attributable to Credits under this Section 3.03(b)(iii) such that the Investor Member will pay in total more than \$0.965 per dollar of Credits received;

(iv) If the actual Available Low-Income Housing Credit, as reflected on the Company's tax return, for any year during the Credit Period and the first year following the Credit Period is less than the Available Low-Income Housing Credit reflected in the Revised Projections for such year(excluding differences due to timing of delivery of Credits, such as Credits from the first year of the Credit Period that are allowable in the first year following the Credit Period and Credits allowed after the Credit Period pursuant to Code Section 42(f)(3)), then the Investor Member's aggregate Capital Contribution shall be reduced by the sum of (a) an amount equal to 96.5% of the difference between the Available Low-Income Housing Credit as set forth in the Revised Projections for such year and the Available Low-Income Housing Credit as set forth in the Company's annual tax return; plus (b) a time value payment for the period from the due date of the Eighth Installment, or if the requirements triggering the payment of the Eighth Installment have not yet been achieved from the due date of the Seventh Installment, to the date

the payment is made to the Investor Member under this clause, with said payment to be based on the amount under item (a) and the Prime Rate, as in effect from time to time during such period (see Section 3.03(b)(viii) if the adjustment exceeds the remaining Installments, if any).

(v) If adjustments are to be made under both clause (i) and (iv) above, any tentative adjustment under clause (iv) shall first be modified to account for the adjustment to be made under clause (i), so that no double adjustment will be made, and if adjustments are to be made under both clause (ii) and (iv) above, any tentative adjustment under clause (iv) shall first be modified to account for the adjustment to be made under clause (ii) so that no double adjustment will be made;

(vi) If any portion of the Credits previously allocated to the Investor Member is recaptured pursuant to Code Section 42(j), and such a recapture was not a result of a disposition of all or a portion of the Interest of such Investor Member by such Investor Member or by any other action or inaction of the Investor Member, then the Company shall promptly repay, as a return of capital, to the Investor Member (a) an amount equal to 96.5% of the Credits recaptured from such Investor Member, plus (b) an amount equal to any interest or penalties assessed against the Investor Member by the IRS, in addition to the recaptured amount pursuant to Code Section 42(j) as a result of any such recapture of Credits, plus (c) a time value payment for the period from the due date of the Eighth Installment, or if the requirements triggering the payment of the Eighth Installment have not yet been achieved, from the due date of the Seventh Installment, to the date the payment is made to the Investor Member under this clause, with said payment to be based on the amount under item (a) and the Prime Rate, as in effect for such period;

(vii) If, at any time after the tax year in which any of the Buildings is placed in service through the end of the Compliance Period applicable to such Building, it is determined that for any tax year of the Company's operation all or any portion of the Credits is recaptured or disallowed or all or any portion of the Credits becomes unavailable for the Project as a result of any of the following events: (a) substantial destruction of any of the residential Units in the Project which is not timely repaired, (b) foreclosure of either of the Loans due to, in whole or in part, the action or inaction by the Managing Members which is a violation of any provision of this Agreement, and such action is not vacated, discharged, stayed or bonded within one hundred twenty (120) days or (c) failure of the Managing Members to maintain the tenant base and rent levels of the residential Units in the Project at levels meeting the applicable qualification criteria for the Credits and failure to effect cure within sixty (60) days, then the Company shall promptly repay to the Investor Member, as a return of capital, an amount equal to (x) 96.5% of the Credits recaptured from, or disallowed or unavailable to, such Investor

Member, pursuant to this clause (vii), plus (y) an amount equal to any interest or penalties, in addition to amounts payable pursuant to Code Section 42(j), assessed against the Investor Member by the IRS as a result of any such recapture, plus (z) a time value payment for the period from the due date of the Eighth Installment or if the requirements triggering the payment of the Eighth Installment have not yet been achieved from the due date of the Seventh Installment, to the date the payment is made to the Investor Member under this clause, with said payment to be based on the amount under item (x) and the Prime Rate, as in effect from time to time during such period; if any adjustment is made under clause (i), (ii), (iv) or (vi) above, any tentative adjustment under this clause (vii) shall first be modified to account for the adjustment made under clause (i), (ii), (iv) or (vi), so that no double adjustment will be made. In no event shall the amount of the subclause (x) payment exceed the amount of the Investor Member's Capital Contribution previously made;

(viii) If the amount of any reductions required by paragraphs (i),(iii),(iv), (vi), and (vii) above is greater than the next Installment due hereunder, succeeding Installments shall also be reduced in the same manner, until the entire adjustment has been made. If the amount of any such required reduction is greater than all remaining Installments, if any, due hereunder, the Company (or the Managing Member, if the Company does not pay), shall pay to the Investor Member with regard to only the Credits the lesser of (1) amount of the remaining adjustment or (2) the LIH Adjustment Limit (such payment by the Managing Member shall be hereinafter referred to as a "**Credit Adjuster Payment**"), and if such payment is not made to the Investor Member within thirty (30) days of the date of the determination of the amount due to the Investor Member under this Section 3.03, such remaining and/or unpaid amounts, with interest thereon accruing at an annual rate equal to two percent (2%) over the Prime Rate commencing on the first day of the year in which the payment is due (the "**Unrecovered Adjustment**"). The Unrecovered Adjustment shall constitute an amount of liquidated damages owed by the Managing Members to the Investor Member for breach of the Managing Members' representations and warranties, and shall be recovered from Cash Flow (in the priority set forth in Exhibit A-4 hereof) and/or Capital Proceeds (in the priority set forth in Section 8.02);

(ix) Unless otherwise provided in this Section 3.03, all payments due to the Investor Member under this Section 3.03 shall be treated as a return of the Capital Contribution of the Investor Member and, if such payment is made by the Managing Member, a contribution to capital by the Managing Member, and all payments due by the Investor Member to the Company under this Section shall be treated as an additional contribution to capital by the Investor Member, unless, in the Managing Member's reasonable discretion, such characterization of payments due under this Section 3.03 would limit or eliminate the

deductibility of losses or would limit or eliminate the ability of the Investor Member or any of its Investor Members to enjoy or apply Credits allocated by the Company. If the Managing Member reasonably so determines, then the payments due to the Investor Member under this Section 3.03 shall be treated as a distribution to the Investor Member, which is subject to income tax, and the payments due shall be increased in an amount equal to the incremental income tax resulting therefrom to the Investor Member. In calculating the incremental income tax the tax rates utilized shall be the marginal income tax rates applicable to the Investor Member for the year in which the payment is made.

(x) Notwithstanding the foregoing provisions of this Section 3.03, the Managing Members shall not have any liability to the Investor Member or any of its Investor Members for any loss of tax benefits or Credits sustained by them as a result of any current provisions or changes in the Code or Treasury Regulations thereunder which limit or eliminate the deductibility of losses or which limit or eliminate the ability of the Investor Member or any of its Investor Members to enjoy or apply Credits allocated by the Company.

### **3.04 No Interest on Capital Contributions**

No interest shall accrue or be payable to any Member by reason of its Capital Contribution or its Capital Account.

### **3.05 No Right to Require Repayment of Capital**

A Member shall not have the right to withdraw from the Company all or any part of its Capital Contribution. No Member shall have any right to demand and receive property of the Company in return for its Capital Contribution or in respect of its Interest, except as provided in this Agreement. No Investor Member shall have priority over any other Investor Member as to any return of Capital Contributions or as to any distributions made by the Company under Article VIII.

### **3.06 No Deficit Restoration**

If, upon liquidation of a Member's Interest (whether or not in connection with the liquidation of the Company), the Member has a negative balance in its Capital Account, unless such Member has previously agreed otherwise, the Member shall have no obligation to make any contribution to the capital of the Company and the negative balance of the Member's Capital Account shall not be considered a debt owed by the Member to the Company or any other Person for any reason whatsoever.

### **3.07 No Third-Party Beneficiary**

None of the provisions of this Agreement shall be construed as existing for the benefit of any creditor of the Company or for the benefit of any creditor of the Members, and no provision shall be enforceable by a party not a signatory to this Agreement.

## **ARTICLE IV - RIGHT TO MORTGAGE; MANAGING MEMBER BOUND BY LOAN DOCUMENTS**

### **4.01 Right to Mortgage**

(a) The Company shall be authorized to borrow from the Mortgagees whatever amounts may be required, subject to the provisions hereof, in connection with the acquisition, development, and/or rehabilitation of the Company Property, and the meeting of the expenses of operating the Project (including, without limitation, any items for which the Mortgagees may provide mortgage funds), and shall secure the same by the Mortgagees. Such borrowing shall not at any given time exceed the amount of unpaid principal due including accrued interest, nor be at a higher interest rate, nor change the payment terms, under the initial Mortgage Notes.

(b) The Loans shall provide that no Member shall have any personal liability for the payment of all or any part of such Mortgage Notes, except for customary exclusions including, but not limited to, fraud, misappropriation of funds or waste.

(c) The Managing Member shall not have any authority to enter into any loan on behalf of the Company (or on the Managing Member's behalf to the extent the proceeds will be used in the Project) which has not closed as of the Admission Date without the Consent of the Investor Member. Such Consent will be promptly provided or withheld by the Investor Member after it has been provided an opportunity to review all material loan documents.

### **4.02 Managing Member Bound by Loan Documents**

The Managing Member, on behalf of the Company, shall be bound by the terms of the Loan Documents and the Project Documents. Any incoming managing member of the Company shall as a condition of receiving any Interest agree to be bound by the Loan Documents and the Project Documents to the same extent and on the same terms as any other Managing Members.

## **ARTICLE V - RIGHTS, POWERS AND OBLIGATIONS OF THE MANAGING MEMBER**

### **5.01 Authority of Managing Member**

(a) Subject to the terms of this Agreement, the Managing Member shall have the right, power, and authority, acting for and on behalf of and in the name of the Company, to: (i) execute and deliver on behalf of the Company any contract, agreement, or other instrument or document required or otherwise appropriate to acquire, rehabilitate, renovate, improve, lease, operate, sell, encumber, mortgage, convey, or refinance the Company Property (or any part thereof); (ii) convey the Company Property by deed, mortgage, certificate, bill of sale, agreement, or otherwise, as appropriate; and (iii) bring, compromise, settle, and defend actions at law or in equity.

(b) All decisions made for and on behalf of the Company by the Managing Member (when acting in its capacity as the Managing Member of the Company) shall be binding upon the Company. In furtherance and not in limitation of the foregoing provisions of this Article V and of the other provisions of this Agreement, the Managing Member is, without the joinder of any other member, as is more fully set forth in Section 5.01(a), specifically authorized and empowered to execute any and all instruments and documents as shall be required by any lender in connection with any loan or loans, including but not limited to executing the Mortgages, Mortgage Notes, any contract, building loan agreement, bank resolution and signature card, release, discharge, or any other document or instrument in any way related thereto or necessary or appropriate in connection therewith, all of which must be in accordance with this Agreement.

(c) The Tax Matters Member shall maintain the books and records of the Company, and shall be responsible, on a timely basis, for (i) preparing all required tax returns and related information, (ii) making all tax elections, if appropriate, and (iii) preparing all financial information, all in accordance with Sections 5.03(c) and 13.03 hereof.

(d) In order to facilitate the operation and development of the Project, the Managing Member may appoint a Person (each an “**Authorized Signatory**”) to execute and deliver such documents for and on behalf of the Company in the capacity as the Managing Member; provided however, that (i) in all events such Person shall be subject to the Managing Member’s supervision and control and (ii) in no event shall an Authorized Signatory execute any documents on behalf of the Company in connection with an action set forth in Section 5.02 hereof. A Person named as an Authorized Signatory shall remain as an Authorized Signatory until written direction is received from the Managing Member in the form of a written resolution adopted by the Managing Member. Each Authorized Signatory shall be entitled to the indemnifications set forth in Section 5.07 hereof. Upon execution of this Agreement, the Managing Member hereby appoints each of Dwight Dunton, Christopher Cobb and J.P. Hyland to serve as an Authorized Signatory of the Company for all such matters in which the Managing Member has sole discretion to act, each of whom may act individually in accordance with the provisions of this Section 5.01(d) without the necessity of the others joining in such acts.

(e) Investor Member acknowledges that the Company has entered into the Letters of Credit Loan Documents prior to the date hereof in connection with the issuance of the Letters of Credit. Investor Member hereby ratifies and affirms all actions taken by the Managing Member on behalf of the Company in connection with the Letters of Credit Loan Documents.

## **5.02 Limitations on the Authority of the Managing Member**

Notwithstanding any other provision of this Agreement, the Managing Member shall have no authority to perform any act in violation of any applicable law or regulations, this Agreement, the Loan Documents, or the Project Documents; to do any act required to be approved, consented to, voted on, or ratified by the Members under the

Act or under this Agreement unless such approval, vote, consent, or ratification has been obtained; to cause the Company to engage in any business other than as set forth in Section 1.06; or do any act that would make it impossible to carry out the business of the Company as contemplated herein. The Managing Member shall have no authority to engage in the following activities without the prior Consent of the Investor Member (in its sole discretion), and, if required, the consent of the Mortgagees:

- (i) Effect a sale of all or any portion of the Company Property including the Units and any commercial and/or community space;
- (ii) Effect a refinancing, encumbrance, mortgage, conveyance, or other disposition of all or a substantial portion of the Company Property after the Completion Date other than in connection with the Loans;
- (iii) Lease as an entirety the Company Property, or lease any portion of the Company Property except in the normal course of business;
- (iv) Following the Completion Date, construct any new capital improvements or replace any existing capital improvements costing in excess of one hundred thousand dollars (\$100,000.00);
- (v) On behalf of the Company, incur debt not in the ordinary course of business or arrange for the receipt of any grant of funds, nor incur debt in the ordinary course of business in excess of fifty thousand dollars (\$50,000.00) in the aggregate at any one time outstanding, except as specifically permitted in this Agreement;
- (vi) Change the nature of the Company's business;
- (vii) Voluntarily file a bankruptcy petition on behalf of the Company;
- (viii) Dissolve or wind up the Company;
- (ix) Modify or amend this Agreement;
- (x) Prepay the Mortgage Notes except as contemplated in the Loan Documents;
- (xi) Admit any Person as a Member, except as otherwise provided in this Agreement;
- (xii) Borrow from the Company or commingle Company funds with the funds of any Person;
- (xiii) Make application for or accept increase or increases in the principal amount of Loans or materially modify the Loans in any way that may affect the nature of the business of the Company and/or in the opinion

of the Accountants may affect the ability of the Investor Member to receive the Credit in the amount of the Projected Credits; or

(xiv) Modify, in any material respect, any Loan Document or Project Document.

### **5.03 Overall Management of Business**

(a) The Managing Member shall have full and exclusive power and right to manage and control the business and affairs of the Company.

(b) The Managing Member may delegate its authority, power, and right to manage the Company Property to the Management Agent; provided, however, that any such delegation shall not relieve the Managing Member of its obligations and responsibilities to ensure the proper management of the Company Property.

(c) The Tax Matters Member shall prepare or cause to be prepared all tax and information returns required of the Company or considered necessary by the Managing Member (including, but not limited to, federal, state, and local income tax and information returns and any amended returns), which returns shall be reviewed in advance by the Accountants. The Tax Matters Member shall, with the Consent of the Investor Member, be responsible for making all elections required or allowed under the Code or the Treasury Regulations including, but not limited to, elections pursuant to Sections 42, 168, 709, and 754 of the Code, and all elections required or allowed under State or local law. To the extent possible, no election shall be made without the Consent of the Investor Member which would create a benefit to the Managing Member and a detriment to the Investor Member.

### **5.04 Duty of the Managing Member to Maintain the Low-Income Housing Status of the Company Property.**

(a) During the Extended Use Period, the Managing Member shall use reasonable commercial efforts to hold for occupancy one hundred percent (100%) of the Credit Units in the Project in such a manner as to qualify each such Unit as a "low-income unit" under Section 42(i)(3) of the Code and the Project as a "qualified low-income housing project" under Section 42(g)(1)(B) of the Code, as such sections of the Code are interpreted from time to time in Treasury Regulations and rulings promulgated thereunder.

(b) During the Extended Use Period, the Managing Member shall prepare and submit to the Secretary of the Treasury (or any other governmental authority designated for such purpose), on a timely basis, any and all annual reports, information returns, and other certifications and information and shall take any and all other reasonable action required (i) to insure that the Company (and its Members) will continue to qualify for the Credit for each of the Credit Units and the Company Property, and (ii) to avoid recapture or reduction of the Credit or the imposition of penalties or interest on the Company or any of the Members for failure to comply with Section 42 of the Code.



(c) The Managing Member shall use its reasonable commercial efforts to develop strategies to maintain the Credit Units as low-income housing after the end of the Compliance Period for the Extended Use Period under Section 42 of the Code.

### **5.05 Outside Activities**

The Managing Member shall devote to the management of the business of the Company so much of its time as it deems reasonably necessary to the efficient operation of the Company Property, the Project, and the Units and in order to comply with this Agreement. The Managing Member may engage in and possess any interest in other business ventures (including limited partnerships and limited liability companies) of every kind, nature, and description whatsoever, independently or with others, whether existing at the date hereof or hereafter coming into existence, including, without limitation, acting as general partner, managing member, limited partner of other partnerships or limited liability companies that own, directly or through interests in other partnerships, housing projects similar to, or in competition with, the Project. Neither the Company nor the Members shall have any rights by virtue of this Agreement in or to such other business ventures or to the income or profits derived therefrom and nothing shall be construed to render them partners in any such business venture. Notwithstanding the foregoing, none of the Managing Member, the Guarantor, or an Affiliate of either, shall place into service a competing non-market rate family project comprised of more than fifty (50) residential rental units located within a five (5) mile radius of the Company Property in which the Managing Member, the Guarantor or an Affiliate of either owns an equity interest, until the Completion Date has occurred and Stabilization has been achieved.

### **5.06 Liability to Company and Investor Member**

The Managing Member shall not be liable, responsible, or accountable in damages or otherwise to the Investor Member or to the Company for any acts performed in good faith and within the scope of authority of the Managing Member pursuant to this Agreement; provided, however, that the Managing Member shall be liable for its actions and/or omissions to the extent they are attributable to gross negligence, fraud, willful misconduct, malfeasance or a breach of this Agreement. In the application of the standards of good faith and scope of authority of the Managing Member in this Section 5.06, the Managing Member acknowledges that it possesses commercially reasonable knowledge and understanding of the regulations and requirements associated with the construction and operation of a Section 42 low income housing tax credit property.

### **5.07 Indemnification of Managing Member**

(a) The Company shall indemnify, defend, and hold harmless the Managing Member and any Authorized Signatory from and against any loss, liability, damage, cost, or expense (including reasonable attorneys' fees) arising out of or alleged to arise out of any demands, claims, suits, actions, or proceedings against the Managing Member and any Authorized Signatory, by reason of any act or omission performed by it (including its employees and agents) while acting in good faith on behalf of the Company and within

the scope of the authority of the Managing Member pursuant to this Agreement, and any amount expended in any settlement of any such claim of liability, loss, or damage; ***provided, however***, that: (i) the Managing Member or the Authorized Signatory, as the case may be, must have in good faith believed that such action was in the best interests of the Company, and such course of action or inaction must not have constituted gross negligence, fraud, willful misconduct, malfeasance or a breach of this Agreement; and (ii) any such indemnification shall be recoverable from the assets of the Company, not from the assets of the Investor Member, and no Member shall be personally liable therefor. This indemnity shall be operative only in the context of third-party suits, and not in connection with demands, claims, suits, actions or proceedings initiated by any Member or any Affiliate thereof against another Member.

(b) The provision of advances from the Company to the Managing Member and any Authorized Signatory for reasonable legal expenses and other costs as a result of a legal action pursuant to Section 5.07(c) is permissible only if the following three conditions are satisfied: (i) the legal action relates to the performance of the duties or services by the Managing Member or any Authorized Signatory, as the case may be, on behalf of the Company; (ii) the legal action is initiated by a third party who is not a Member or Affiliate thereof; and (iii) the Managing Member and any Authorized Signatory covenants in advance to repay the advance of funds to the Company in accordance with Section 5.07(c) in the event it is determined that the Managing Member or any Authorized Signatory, as the case may be, is not entitled to indemnification hereunder.

(c) The Managing Member and any Authorized Signatory, when entitled to indemnification pursuant to this Section 5.07, shall be entitled to receive, upon application therefor, reasonable advances against actual costs incurred to cover the costs of defending any proceedings against it; provided, however, that the Managing Member and any Authorized Signatory agree that if it receives such advances, it shall repay such advances to the Company if the Managing Member or any Authorized Signatory, as the case may be, is determined not to be entitled to indemnification under this Section 5.07. All rights of the Managing Member to indemnification shall (to the full extent permitted by law) survive the dissolution of the Company and the death, dissolution, retirement, incompetency, insolvency, bankruptcy, or withdrawal of the Managing Member or removal of any such Authorized Signatory.

(d) The indemnification rights contained in this Section 5.07 shall be limited to out-of-pocket loss or expense. Nothing contained herein shall constitute a waiver by the Investor Member or any of their respective Affiliates of any right that it may have against any party under federal, state, or common law principles.

The indemnification authorized by this Section 5.07 shall include, but not be limited to, the costs and expenses (including reasonable attorneys' fees) of the removal of any liens affecting any property of the indemnitee as a result of such legal action.

## **5.08 Indemnification of Company and Members**

The Managing Member shall defend, indemnify, and save harmless (i) the Company and each Member from any loss, liability, damage, cost, or expense (including reasonable attorneys' fees) incurred by reason of any demands, claims, suits, actions, or proceeding arising out of the Managing Member's gross negligence, fraud, willful misconduct or malfeasance, and (ii) except for the Investor Member's obligations to fund their respective Capital Contributions and any other express obligation of the Investor Member under this Agreement, the Investor Member from any liability incurred by each entity for Company obligations (including, without limitation, the Mortgage Notes) or as a sole result of its position of an Investor Member of the Company, except to the extent that a Final Determination has been made that the Investor Member has taken actions or exercised rights with respect to the operation of the Company in excess of those actions or rights granted or allowed under this Agreement or the Act. The foregoing indemnification shall be a recourse obligation of the Managing Member, and shall survive the dissolution of the Company and/or the death, retirement, incompetency, insolvency, bankruptcy, removal, or withdrawal of the Managing Member.

Except as otherwise provided in this Agreement, neither the Managing Member nor any Affiliate shall have any liability to the Company or any Member as a result of any action or inaction by the Managing Member which the Managing Member reasonably believes in good faith to be within the scope of the authority conferred upon it under this Agreement and such action (or failure to act) does not constitute fraud, willful misconduct, a Material Breach of the Managing Member's fiduciary duty or duty as tax matters member, gross negligence or a violation of state or federal securities laws.

#### **5.09 Environmental Indemnification**

The Managing Member shall indemnify and hold harmless the Investor Member and its respective Affiliates (the "**Indemnified Party**") from any and against all claims, actions, causes of action, damages, costs, liability and expense (including, without limitation, reasonable attorneys' fees, court costs and remedial response costs) incurred or suffered by, or asserted by any Person, entity or governmental agency against the Indemnified Party related to breach of the Managing Member's representations, warranties or covenants, or an alleged violation of the Environmental Laws, or the presence of Environmental Hazards in, on, under or emanating from the Company Property in violation of any Environmental Law. Notwithstanding the foregoing, the Managing Member shall not have an indemnification liability if the violation of the Environmental Laws or the presence of the Environmental Hazards in violation of any Environmental Law is due to conditions existing prior to the Admission Date or arises after the effective date of the Managing Member's removal, if any, or withdrawal, sale, transfer or assignment of its Interest. The foregoing indemnification shall be a recourse obligation of the Managing Member, and shall survive the dissolution of the Company and/or the death, retirement, incompetency, insolvency, bankruptcy, or withdrawal of the Managing Member.

#### **5.10 Representations and Warranties of the Managing Member**

The Managing Member hereby represents and warrants to the Investor Member that the following are true and correct as of the date hereof, unless specifically otherwise provided.

(a) The Company is a duly organized limited liability company validly existing under the laws of the Commonwealth of Virginia and has undertaken all acts, including without limitation, the filing of all certificates and the payment of all fees, taxes, and other sums necessary for the Company to operate as a limited liability company in the Commonwealth of Virginia and to enable the Company to engage in its business.

(b) No event has occurred that has caused, and the Managing Member has not acted in any manner that will cause (i) the Company to be treated for federal income tax purposes as an association taxable as a corporation, (ii) the Company to fail to qualify as a limited liability company under the Act, or (iii) the Investor Member to be liable for Company obligations.

(c) All consents or approvals of any governmental authority, or any other Person, necessary in connection with the transactions contemplated by this Agreement or necessary to admit the Investor Member to the Company (other than the consent of Investor Member and its controlling parties) have been obtained by the Managing Member and the Company has taken all action under the laws of the Commonwealth of Virginia and any other applicable jurisdiction and has complied with all filing requirements necessary under the Act for the preservation of the limited liability of the Investor Member.

(d) The Managing Member represents that it (i) is a limited liability company validly existing under the laws of the Commonwealth of Virginia and (ii) has full power to enter into and consummate this Agreement and all instruments pertaining hereto and to perform all acts related thereto. The consummation of all transactions contemplated herein and in the Loan Documents and the Project Documents to be performed by the Managing Member or its Affiliates does not and will not result in any material breach or violation of, or default under, any governing instrument of the Managing Member or its Affiliates or any agreements by which the Managing Member or its Affiliates or any of its property is bound, or under any applicable law, administrative regulation, or court decree.

(e) The Managing Member represents that no Event of Bankruptcy has occurred with respect to the Managing Member or any of its Affiliates.

(f) No litigation, action, investigation, event, or proceeding is pending against the Company or the Members that, if adversely resolved, would: (i) have a material adverse effect on the Company or the Company Property; (ii) have a material adverse effect on the ability of the Managing Member or any of its Affiliates to perform their respective obligations under this Agreement, or (iii) have a material adverse effect on the financial condition of the Managing Member.

(g) The Managing Member has provided the Investor Member with true and correct copies of any documents relevant to the Loans and the Loan commitments and all documents evidencing or securing the Loans and, if requested by the Investor Member, a complete set of the plans, drawings and specifications of the Project.

(h) To the Managing Member's knowledge, all Loan Documents and Project Documents are in accord with applicable laws, codes and regulations and the rehabilitation of the Company Property will be completed in accordance therewith.

(i) No default has occurred and is continuing beyond any applicable cure or grace period under any of the Loan Documents, the Project Documents, or any other contract, agreement, or instrument relating to the Project to which the Company or the Managing Member is subject.

(j) Except for standard exceptions to nonrecourse liability as set forth in the Loan Documents, none of the Members or the Company has or will have, pursuant to the terms of the Loans, any personal liability as maker, guarantor, partner or otherwise with respect to the payment of principal or interest on the Loans, and in the event of default thereon, the sole recourse with respect to the payment of principal or interest on the Loans of any Mortgagee or other lender shall be to the Project and pledged collateral.

(k) The Managing Member is not presently under any commitment to any real estate broker, rental agent, finder, syndicator or other intermediary with respect to the Project or any portion thereof except for the arrangements specifically described in this Agreement and the arrangements previously disclosed in writing to the Investor Member.

(l) Except for outstanding predevelopment costs, there are no outstanding loans or advances from the Managing Member to the Company, and, except as provided in Section 5.15, the Company has no unsatisfied obligation to make any payments of any kind to the Managing Member or its Affiliates except for the Bridge Loan. All anticipated expenditures of funds expected by the Managing Member to be incurred by the Company as of the Admission Date with respect to the Project are reflected in the Projections or have been disclosed to the Investor Member in writing.

(m) Except as disclosed in writing to the Investor Member or reflected in the Project Documents, there are no restrictions on the sale or refinancing of the Project, other than the restrictions set forth in the Loan Documents, the Project Documents, or under Section 42 of the Code.

(n) As of the Admission Date the Company will own the Company Property, the buildings comprising the Project, and each of the Units, free and clear of any material liens, charges, or encumbrances other than the Mortgages, matters set forth in the Title Policy, and mechanics' or other liens that have been bonded against in such a manner as to preclude the holder of such lien from having any recourse to the Company Property, the Project, any of the Units, or the Company for payment of any debt secured thereby and the Managing Member has not received notice of any such liens, charges, or encumbrances.

(o) All building, zoning, and other applicable certificates, permits, and licenses necessary to permit the rehabilitation, use, occupancy, and operation of the Company Property and the Project have been obtained (other than such as will be issued only after the completion of the rehabilitation of the Project or any specified portion thereof), all improvements constructed or to be constructed on the Company Property have been or will be constructed and equipped in material compliance with the requirements of all governmental authorities having jurisdiction over the Company Property and neither the Company nor the Managing Member has received any notice of or has any actual knowledge of any violation with respect to the Company Property of any law, rule, regulation, order, or decree of any governmental authority having jurisdiction that would have a material adverse effect on the Company Property or the Project or the Company's investment in the Company Property or the rehabilitation, use, occupancy, or operation thereof.

(p) All appropriate roadways and public utilities necessary to the operation of the Company Property, including, but not limited to, sanitary and storm sewers, water, gas (if applicable), and electricity, are available to the Company Property and each of the Units and are or will be connected to each Unit in the Project on or before the date that a certificate of occupancy is obtained for each Unit.

(q) Except as provided to the Investor Member, no amendments, modifications, or other changes or additions have been made to the Environmental Reports. The Managing Member warrants and represents that, except as disclosed in the Environmental Reports, there presently are not in, on or under the Company Property nor will there be in, on or under the Company Property upon completion of the construction any Environmental Hazard in violation of any federal, state or local statute, law, regulation, rule or ordinance. If any Environmental Hazard was found to exist or be present in violation of any federal, state or local statute, law, regulation, rule or ordinance, it has been (or prior to the Completion Date, will be) either removed from the Company Property and disposed of or encapsulated and/or otherwise corrected and/or maintained pursuant to an operations and maintenance plan, contained and made safe and inaccessible, all in accordance with federal, state, and local statutes, laws, regulations, rules, and ordinances, any recommendations set forth in the Environmental Reports, and any requirements in the Loan Documents. The Managing Member further warrants and represents that the Company Property is in material compliance with all applicable Environmental Laws and the Managing Member has not received notice of any violations of the Environmental Laws.

(r) The Company has obtained or will obtain a 42m letter from the Authority in the amount at least equal to the Annual Credit Allocation shown on Exhibit A-2, and all information contained in any application for the allocation of the Credit is complete and correct in all material respects.

(s) The Company will use reasonable efforts to rehabilitate the Project in substantial conformance with the approved plans and specifications and thereafter operate the Credit Units, as low-income housing as required by the Code in order to qualify for and maintain the Credit and other tax benefits anticipated in connection therewith.

(t) The Company has not made and will not make any elections under the Code without the Consent of the Investor Member (in its sole discretion) that would affect the amount, timing, availability, or allocation of Credits.

(u) [Reserved].

(v) No portion of the Company Property is or will be treated as tax-exempt use property as defined in Section 168(h) of the Code and, in furtherance thereof, the Managing Member has made or will make an election in accordance with Section 168(h)(6) of the Code.

(w) The Company has entered into a guaranteed maximum price construction contract with Bonaventure Construction LLC with a completion assurance letter of credit in an amount equal to ten percent (10%) of the non-critical repair construction costs to construct the Project in substantial compliance with the approved plans and specifications.

(x) To the best knowledge, information and belief of the Managing Member, after a commercially reasonable investigation, the information provided by the Managing Member to the Accountants reflects the Managing Member's good faith reasonable expectation of future operations of the Company as of the Admission Date.

(y) To the best knowledge, information and belief of the Managing Member, after a commercially reasonable investigation, the Projections represent the Managing Member's good faith estimates of the future performance of the Company and are based on assumptions that the Managing Member believes to be reasonable.

(z) To the best knowledge, information and belief of the Managing Member, the Company Administration Fee is reasonable and in accordance with fees charged in other comparable transactions.

## **5.11 Covenants of the Managing Member**

The Managing Member covenants to the Investor Member that for the Term:

(a) The Managing Member shall use reasonable commercial efforts to cause the Company to do all things necessary to maintain its status as a limited liability company in good standing and has, and shall continue to have full power and authority to acquire the Company Property and to develop, rehabilitate, operate, and maintain the Project in accordance with the terms of this Agreement and to enable the Company to engage in its business.

(b) The Managing Member shall not act in any manner that will cause (i) the Company to be treated for federal income tax purposes as an association taxable as a corporation, (ii) the Company to fail to qualify as a limited liability company under the Act, or (iii) the Investor Member to be liable for Company obligations.

(c) The Company shall continue to take all reasonable action under the laws of the Commonwealth of Virginia and any other applicable jurisdiction that is necessary to protect the limited liability of the Investor Member.

(d) The Managing Member shall, during and after the period in which it is a Member, provide the Company with such information and sign such documents as are reasonably necessary for the Company to make timely, accurate and complete submissions of federal and state income tax returns.

(e) The Managing Member shall furnish to counsel for the Managing Member promptly as and when reasonably requested in connection with the rendering of any legal opinion addressed to the Investor Member concerning federal income tax relating to the Investor Member's investment in the Company, all documents requested by counsel for the Managing Member.

(f) The Managing Member shall promptly inform the Investor Member of any litigation, action, investigation, event, or proceeding that it has notice is pending which, if adversely resolved, would (i) have a material adverse effect on the Company or the Company Property; (ii) have a material adverse effect on the ability of the Managing Member or any of its Affiliates to perform their respective obligations under this Agreement; or (iii) have a material adverse effect on the financial condition of the Managing Member.

(g) The Managing Member shall promptly inform the Company and the Investor Member upon receiving any notice of or having any actual knowledge of any violation with respect to the Company Property of any law, rule, regulation, order, or decree of any governmental authority having jurisdiction over the Company Property, which would have a material adverse effect on the Company Property or the Project or the rehabilitation, use, occupancy, or operation thereof.

(h) The Managing Member shall furnish to the Investor Member, within fifteen (15) business days of receipt thereof, a copy of any notice of default from the Authority or under the Mortgage Notes, the Mortgages, any of the Project Documents, or any of the Loan Documents given to the Company or the Managing Member.

(i) Except for certain exceptions to the nonrecourse provisions as set forth in the Loan Documents and the Bride Loan Note, the Managing Member agrees that neither it nor any of its Affiliates will at any time become subject to any economic risk of loss within the meaning of Treasury Regulation Section 1.752-2 with respect to any Company obligation. The Managing Member agrees that it will not cause the Investor Member to become, and it will take all steps necessary to prevent the Investor Member at any time from becoming, personally liable for payment or performance under the Mortgage Notes or the Mortgages. The sole recourse of the Mortgagees under the Mortgage Notes with respect to the principal thereof, interest thereon or any other obligation thereunder, shall be to the assets of the Company and the Mortgage Notes shall contain similar nonrecourse provisions.



(j) Except with the Consent of the Investor Member, the Managing Member will not cause or allow restrictions on the sale or refinancing of the Project, other than the restrictions set forth in the Loan Documents and the Project Documents.

(k) The Managing Member will cause all of (i) the fixtures, maintenance supplies, tools, equipment and like owned or to be owned by the Company or to be appurtenant to, or to be used in the operation of the Project as well as (ii) the rents, revenues and profits earned from the operation of the Project, to be free and clear of all security interests and encumbrances except for (i) the Loans, (ii) matters set forth in the Title Policy, and (iii) liens or encumbrances approved by the Investor Member described herein.

(l) The Managing Member or its Affiliates shall cause the rehabilitation to be completed substantially in accordance with the relevant Project Documents. The Managing Member or its Affiliates shall obtain all building, zoning, and other applicable certificates, permits, and licenses necessary to permit the rehabilitation, use, occupancy, and operation of the Company Property and the Project that are obtainable only after completion of the Company Property and the Project or a specified portion thereof.

(m) The Managing Member will cause the Company to keep all public utilities necessary to the operation of the Company Property, including, but not limited to, sanitary and storm sewers, water, gas (if applicable), and electricity, operating in working condition, to the extent required by law.

(n) The Managing Member will cause the Company Property, including each of the Units, to be operated in compliance with all applicable zoning regulations, ordinances, and subdivision laws, rules, and regulations.

(o) The Managing Member will cause the Company to maintain insurance at least in accordance with Exhibit H, but may maintain insurance in higher amounts and with additional coverages than specified in Exhibit H.

(p) The Managing Member shall take reasonable actions necessary to ensure that the Company Property contains no, and is not affected by the presence of, any Environmental Hazard in violation of any Environmental Law, and to ensure that the Company Property is not in violation of any Environmental Law. The Managing Member shall promptly deliver to the Investor Member any notice received from any source whatsoever of the existence or potential existence of any Environmental Hazard on the Company Property in violation of any Environmental Law with respect to the Company Property. If any Environmental Hazard is found to exist or be present in violation of any Environmental Law, the Managing Member shall commence promptly the taking of reasonable action to assure it will be either removed from the Company Property and disposed of or encapsulated and/or otherwise corrected and/or maintained pursuant to an operations and maintenance plan, contained and made safe and inaccessible, all in accordance with applicable Environmental Laws, any recommendations set forth in the Environmental Reports, and any requirements in the Loan Documents. If, at any time during the Term of the Company the Investor Member

determines that the foregoing representations or covenants in this Agreement relating to Environmental Hazards and Environmental Laws may not have been true when made, or may have become untrue, the Company shall promptly obtain an environmental audit of the Company Property. The scope of such audit and the company performing it shall be reasonably determined by the Managing Member.

(q) The Managing Member will cause the Company to comply in all material respects with all of the terms and conditions of the residential lease agreement for each of the Units.

(r) The Managing Member will use reasonable commercial efforts to cause the Project to be constructed and/or rehabilitated, and thereafter cause the Credit Units to be operated, as low-income housing as required by the Code in order to qualify for and maintain the Credit and other tax benefits anticipated in connection therewith.

(s) The Managing Member shall use reasonable commercial efforts to, during the Compliance Period and Extended Use Period, rent the Credit Units to Qualifying Tenants, charge such tenants rental rates no greater than permitted under Section 42 of the Code, and in all other respects comply with the provisions of Section 42 of the Code and Treasury Regulations thereunder and any state or local law necessary to qualify for the Credit with respect to those Credit Units.

(t) [Reserved]

(u) The Managing Member has not permitted, and will not after the Admission Date permit, the Company to accept any federal or non-federal grant of funds without the Consent of the Investor Member.

(v) No separate fee will be charged to the tenants of the Project for the use of any of the common area facilities (other than the coin-operated laundry facilities that may be leased by the Company and used on the premises and the parking lot or rental fees associated with special events). Such prohibition shall not include any cable or internet services.

(w) Continual or frequent nursing, medical or psychiatric services will not be available to tenants in the Project.

(x) The Project will not be operated as a hospital, nursing home, sanitarium, lifecare facility or intermediate care facility for the physically or mentally handicapped.

(y) The Managing Member will obtain flood insurance if the Company Property is at any time determined to be in a Special Flood Hazard Area.

(z) The Managing Member will take all actions necessary or appropriate to prevent any portion of the Company Property from being treated as tax-exempt use property as defined in Section 168(h) of the Code, and in furtherance thereof, the Managing Member shall make or has made an election in accordance with Section 168(h)(6) of the Code.

(aa) The Project will be treated as residential rental property under Sections 168(c) and 168(e)(2) of the Code.

(bb) In addition to the requirements of Section 5.04(a), the Company shall at all times comply with the income and rent restrictions in the Loan Documents and any agreements with the First Priority Mortgage Lender relating to the Project to the extent such restrictions are then applicable.

## **5.12 No Compensation**

Except as provided in the Fee Agreements, the Managing Member and its Affiliates shall not be entitled to receive any compensation in connection with its performance of its duties as Managing Member.

## **5.13 Obligation to Complete Construction**

(a) The Managing Members shall complete the rehabilitation of the Company Property or cause the same to be completed in a good and workmanlike manner, free and clear of all mechanics', materialmen's, or similar liens, and shall equip the Company Property or cause the same to be equipped with all necessary and appropriate fixtures, equipment and articles of personal property, including refrigerators and ranges, all substantially in accordance with the Loan Documents and the Project Documents, and shall provide for, or cause to be provided for, all other actions and performance required to arrive at the Completion Date and shall meet all requirements for obtaining and maintaining all necessary certificates of occupancy and use permits for all the Units in the Project.

(b) If the Designated Proceeds are insufficient to:

(i) Complete the rehabilitation of the Project or cause the same to be completed in a good and workmanlike manner, free and clear of all mechanics', materialmen's, or similar liens, and equip the Company Property or cause the same to be equipped, all substantially in accordance with the Loan Documents and the Project Documents;

(ii) Arrive at the Completion Date in material conformity with the Loan Documents;

(iii) Discharge all Company liabilities and obligations arising out of any casualty giving rise to insurance proceeds;

(iv) Meet all requirements for obtaining and maintaining all necessary certificates of occupancy and use permits;

(v) Pay or provide for all requirements of the ongoing business operations of the Company applicable to the period prior to the Completion Date; and

(vi) Fully fund the Operating Reserve and any other reserve as set forth in Exhibit A-6 of this Agreement as well as the Insurance and Tax Escrow to the extent required to be funded as of the Completion Date.

The Managing Members shall directly pay all funds ("**Development Advances**") that shall be necessary to accomplish the foregoing at such time as those costs and expenses become due and payable. This is a guaranty of payment, not of collection. Any funds provided by the Managing Members pursuant to this Section 5.13 shall not be deemed to be Capital Contributions by the Managing Members but may be repayable from the Capital Proceeds in accordance with Article VIII. The Managing Members' obligations under this Section 5.13 are more fully set forth in the Unconditional Construction Completion Guaranty Agreement, and such obligations shall be guaranteed by the Guarantor pursuant to the Unconditional Construction Completion Guaranty Agreement attached as Exhibit F to this Agreement.

#### **5.14 Operating Deficit Contributions and Operating Deficit Loans**

(a) If, at any time or from time to time after the PIS Date, but prior to the Stabilization Date, an Operating Deficit exists, to the extent not funded from Company reserves, then the Managing Member shall contribute funds (an "**Operating Deficit Contribution**") to the Company, as an increase to its Capital Account in an amount equal to the amount of the Operating Deficit within thirty (30) days of the end of the month during which the Operating Deficit arises.

(b) If, after the Stabilization Date and Prior to the Release Date, an Operating Deficit exists, to the extent not funded from Company reserves, the Managing Member shall lend funds (an "Operating Deficit Loan") to the Company, on an unsecured basis, in an amount equal to the Operating Deficit within thirty (30) days at the end of the month during which the Operating Deficit arises. Such Operating Deficit Loans shall accrue interest at a non-compounded rate of four percent (4%) per annum. The Managing Member's obligation to make Operating Deficit Loans to fund Operating Deficits which are not funded from the Operating Reserve (the Operating Reserve shall not be drawn down for this purpose below a balance of One Million Four Hundred Twenty-Five Thousand One Hundred Seventy-Four and 00/100 Dollars (\$1,425,174) without the Consent of the Investor Member (in its sole discretion)) shall be limited at any point in time to the Maximum Operating Deficit Loan Cap. Existing Operating Deficit Loan(s), to the extent repaid, will not be considered when determining the remaining funding obligation under the Maximum Operating Deficit Loan Cap.

(c) Operating Deficit Contributions, without interest, and Operating Deficit Loans, shall be repayable solely as provided in Article VIII hereof.

(d) The Managing Member's obligations under this Section 5.14 shall be guaranteed by the Guarantor pursuant to the terms of the Guaranty Agreement, attached as Exhibit D.

(e) In addition to the above, the Managing Member shall make an Operating Deficit Loan to the Company in the amount of any deferred development fee that is not paid by December 31, 2028.

#### **5.15 Dealing with Affiliates; Fees**

(a) The Managing Member may, for, in the name of and on behalf of, the Company, enter into agreements or contracts for performance of services for the Company with an Affiliate thereof and may authorize the Management Agent to enter into such agreements and contracts, and the Managing Member may obligate the Company to pay compensation for and on account of any such services and may authorize the Management Agent to so obligate the Company; provided, however, such compensation and services shall be at costs to the Company not in excess of those that would be incurred in making arms-length purchases of comparable services on the open market.

(b) The Company shall pay fees to the Members and their Affiliates, which fees, and the agreements governing them, are described on Exhibit A-4.

(c) The Company shall pay the Management Agent from gross rental income, a Management Fee pursuant to the Property Management Agreement attached as Exhibit I to this Agreement.

#### **5.16 Obligation to Purchase Interest of Investor Member**

(a) The Managing Member shall be obligated, as provided in Section 5.16(b), to purchase the Investor Member's Interest for the total Capital Contributions made to date by the Investor Member if:

(i) the failure of the Project to achieve the Stabilization Date by the date that is twenty-four (24) months following the Completion Date; or

(ii) any Loan commitment is withdrawn and is not replaced by a comparable commitment acceptable to the Investor Member within a reasonable period of time.

The Managing Member's obligations under this Section 5.16(a) are guaranteed by the Guarantor pursuant to the terms of the Guaranty Agreement, attached as Exhibit D.

(b) Upon the occurrence of any of the events specified in Section 5.16(a), the Managing Member shall, within twenty (20) days thereafter, give Notice to the Investor Member of the occurrence of such event and of the Managing Member's obligation to purchase the Investor Member's Interest. The Investor Member by Consent of the Investor Member may, by Notice to the Managing Member within the earlier of (i) thirty (30) days after the Managing Member's Notice, or (ii) forty (40) days but no sooner than thirty (30) days after becoming aware of the events specified in Section 5.16(a), regardless of whether the Managing Member has complied with the twenty (20) day

Notice requirement described in this Section 5.16(b), elect to require the Managing Member to purchase the Investor Member's Interest. If the Investor Member elects to have its Interest purchased, the Managing Member shall purchase such Interest within ninety (90) days after Notice from the Investor Member of its election to have its Interest purchased. The Investor Member may unconditionally waive at any time its right to require the Managing Member to purchase its Interest by reason of the application of any of the numbered clauses of Section 5.16(a). After such waiver the Managing Member shall have no further obligation to purchase by reason of the application of the clause to which such waiver relates; provided, however, that the Investor Member's election not to have its Interest purchased by reason of the application of one such clause shall not constitute a waiver with respect to any future obligation of the Managing Member to purchase its Interest by reason of the application of any other such clause.

### **5.17 Reserves**

The Managing Member shall cause the Company to establish the reserves and may use such reserves as described on Exhibit A-6.

### **5.18 Action for Breach**

The representations, warranties and covenants in Sections 5.10 and 5.11 are being made by the Managing Member to the Investor Member in consideration for the investment in the Company by the Investor Member. Upon the occurrence of any breach of any representation, warranty, covenant or agreement contained herein having a material adverse effect on the Company or the Project, the Managing Member shall diligently attempt to cure such breach. If such breach is not susceptible to cure, or if the Managing Member fails to pursue a cure diligently, or if within one hundred twenty (120) days no cure has been achieved, then the Investor Member may pursue any available legal or equitable remedy against the Managing Member, without being required to dissolve the Company and notwithstanding the availability of any other remedy; provided, however, that with respect to any breach that results solely in a loss or reduction of the Credit, if such breach occurred despite the Managing Member's good faith, diligent efforts to prevent such breach, the Investor Member shall be limited to its remedies under Section 3.03.

## **ARTICLE VI - RIGHTS AND OBLIGATIONS OF THE INVESTOR MEMBER**

### **6.01 Management of the Company**

The Investor Member shall not take part in the management or control of the business of the Company or transact any business in the name of the Company. The Investor Member shall not have the power or authority to bind the Company or to sign any agreement or document in the name of the Company.

### **6.02 Limitation on Liability of the Investor Member**

Notwithstanding any other provision of this Agreement, the liability of the Investor Member to the Company shall be limited to its Capital Contributions at any given time as and when payable under the provisions of this Agreement. The Investor Member shall not have any other liability to contribute money to, or in respect of the liabilities, obligations, debts or contracts of the Company, nor shall the Investor Member be personally liable for any liabilities, obligations, debts or contracts of the Company. The Investor Member shall not be obligated to make loans to the Company.

### **6.03 Outside Activities**

Nothing herein contained in this Agreement shall be construed to constitute the Investor Member as an agent of any other Member hereof or to limit in any manner the Investor Member in the carrying on of its own businesses or activities. The Investor Member may engage in and possess any interest in other business ventures (including limited partnerships and limited liability companies) of every kind, nature and description, independently or with others, whether existing as of the date hereof or hereafter coming into existence, including, without limitation, acting as general partner or limited partner of other partnerships which own, directly or through interests in other partnerships, housing projects similar to, or in competition with, the Project. Neither the Company nor any of the Members shall have any rights by virtue of this Agreement in or to any such other business ventures or to the income or profits derived therefrom and nothing shall be construed to render them partners in any such business ventures.

### **6.04 Execution of Amendments**

The Investor Member agrees to sign and acknowledge any amendment to this Agreement adopted in accordance with the terms of this Agreement and to execute whatever further instruments shall be necessary or appropriate in connection therewith. The Managing Member shall cause the due execution, acknowledgment, and filing for record (and publication, if required by the Act) of any such amendment or further instruments in accordance with the Act, and shall cause a copy of the endorsed copy thereof to be furnished to the Investor Member.

### **6.05 Inspection of the Project**

The Investor Member and/or its agent or designee shall have the right to inspect the Project, including the rent rolls of the Project and general accounting and tax records of the Company at any time during normal business hours and upon reasonable prior notice and the Managing Member shall provide all reasonable assistance to the Investor Member in such effort.

## **ARTICLE VII - ALLOCATIONS OF PROFITS AND LOSSES**

### **7.01 Maintenance of Capital Accounts**

The Company shall maintain a Capital Account for each Member. Such Capital Account shall be maintained in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv). To each Member's Capital Account there shall be credited (i) such Member's

Capital Contributions, (ii) the fair market value of any property such Member contributes to the Company (net of liabilities securing such property that the Company assumes or takes such property subject to) and (iii) its distributive share of Net Profits and Gains, tax-exempt income and any item in the nature of income or gain allocated to such Member under Sections 7.02, 7.03, and 7.04. To each Member's Capital Account there shall be debited (i) the amount of cash and the fair market value (as of the date of distribution) of any Company property (net of liabilities securing the distributed property that such Member assumes or subject to which such Member takes the distributed property) distributed to such Member pursuant to any provision of this Agreement, (ii) such Member's distributive share of Net Losses and Loss and any items in the nature of expenses or deductions that are allocated to such Member pursuant to Sections 7.02, 7.03, and 7.04, and (iii) such Member's distributive share of any other expenditures which are not deductible by the Company or which are not allowable as additions to the basis of Company Property.

## 7.02 Profits and Losses

(a) After giving effect to the special allocations set forth in Section 7.03 and 7.04, the Net Profits, Net Losses, Loss and credits of the Company shall be allocated one hundredths of one percent (0.01%) to the Managing Member and ninety-nine and ninety-nine hundredths of one percent (99.99%) to the Investor Member; *provided, however,* that Gain shall be allocated among the Members as follows:

(i) To the Investor Member until the balance in the Investor Member's Capital Account equals the Credit Deficiency;

(ii) To the Managing Member until the balance in the Managing Member's Capital Account equals the unpaid portions of any Operating Deficit Contribution, Operating Deficit Loan and Credit Adjuster Payment; and

(iii) The balance, among the Members so that, to the extent possible, the ratio of (x) the balance of the Investor Member's Capital Account in excess of the balance described in Section 7.02(a)(i) to (y) the balance in the Managing Member's Capital Account in excess of the balance described in section 7.02(a)(ii) is 10 to 90.

For purposes of the allocations of Gain and Loss, a Member's Capital Account shall be determined immediately prior to the event giving rise to the Gain and Loss as if, at such time, the books of the Company had been closed as though at the end of the taxable year.

**7.03 Special Allocations and Limitations.** The following provisions of this Section 7.03 shall apply notwithstanding the provisions of Section 7.02. In the event that there is a conflict between any of the following provisions, the earlier listed provision shall govern.

(a) If there is a net decrease in Minimum Gain attributable to Nonrecourse Liabilities during any taxable year, each Member who has a share of the Minimum Gain



attributable to such Nonrecourse Liabilities (as such share is determined pursuant to Treasury Regulation Section 1.704-2(g)) shall be specially allocated items of Company income and gain for such year (and, if necessary, for succeeding years) equal to each Member's share of the net decrease in Minimum Gain (as such share is determined pursuant to Treasury Regulation Section 1.704-2(g)(2)). Notwithstanding the preceding sentence, a Member shall not be specially allocated items of Company income and Gain to the extent:

(i) Such Member's share of the net decrease in the Minimum Gain is caused by a guarantee, refinancing, or other change in the debt instrument causing it to become partially or wholly recourse debt or Member Nonrecourse Debt, and such Member bears the economic risk of loss (within the meaning of Treasury Regulation Section 1.752-2) for the newly guaranteed, refinanced, or otherwise changed liability;

(ii) Such Member contributes capital to the Company that is used to repay the Nonrecourse Liability, and such Member's share of the net decrease in Minimum Gain results from the repayment; or

(iii) If the Commissioner of the IRS waives or excepts such an allocation pursuant to Treasury Regulation Sections 1.704-2(f)(4) or (5).

It is the intent that items to be so allocated shall be determined and the allocations made in accordance with the minimum gain chargeback requirement of Treasury Regulation Section 1.704-2(f), and this Section 7.03(a) shall be interpreted consistently therewith.

(b) If there is a net decrease in Minimum Gain attributable to Member Nonrecourse Debt during any taxable year, each Member who has a share of the Minimum Gain attributable to such Member Nonrecourse Debt (as such share is determined pursuant to Treasury Regulation Section 1.704-2(g)) shall be specially allocated items of Company income and Gain for such year (and, if necessary, for succeeding years) equal to such Member's share of the net decrease in such Minimum Gain (as such share is determined pursuant to Treasury Regulation Section 1.704-2(g)(2)). Notwithstanding the preceding sentence, a Member shall not be specially allocated items of Company income and Gain to the extent:

(i) The net decrease in such Minimum Gain arises because the liability ceases to be Member Nonrecourse Debt due to a conversion, refinancing, or other change in the debt instrument that causes it to become partially or wholly a Nonrecourse Liability; or

(ii) Treasury Regulation Section 1.704-2(i) otherwise so provides.

It is the intent that items to be so allocated shall be determined and the allocations made in accordance with the minimum gain chargeback requirement of Treasury Regulation Section 1.704-2(i) and this Section 7.03(b) shall be interpreted consistently therewith.

(c) In the event a Member unexpectedly receives in any taxable year any adjustments, allocations or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6) that cause or increase an Adjusted Capital Account Deficit of such Member, items of Company income and Gain shall be specially allocated to such Member in such taxable year (and, if necessary, in succeeding taxable years) in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible. It is the intent that items to be so allocated shall be determined and the allocations made in accordance with the qualified income offset provision of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and Section 7.03(c) shall be interpreted consistently therewith.

(d) No Net Losses, Losses or Company deductions for any taxable year shall be allocated to the Investor Member to the extent such allocation would cause or increase an Adjusted Capital Account Deficit with respect to such Member, and such Net Losses, Losses or Company deductions shall instead be allocated to the Managing Member.

(e) Nonrecourse deductions as defined in Treasury Regulation Section 1.704-2(b)(1) for any Fiscal Year shall be allocated ninety-nine and ninety-nine one hundredths of one percent (99.99%) to the Investor Member and one hundredth of one percent (0.01%) to the Managing Member.

(f) If in any taxable year there is a net increase during such year in the amount of Minimum Gain attributable to a Member Nonrecourse Debt, any Member bearing the economic risk of loss with respect to such debt (within the meaning of Treasury Regulation Section 1.752-2) shall be specially allocated items of Company loss or deduction in an amount equal to the excess of (i) such Member's share of the amount of such net increase, over (ii) the aggregate amount of any distributions during such year to such Member of the proceeds of such debt that are allocable to such increase in Minimum Gain. It is the intent that items to be so allocated shall be determined and the allocations made in accordance with the required allocation of "partner nonrecourse deductions" pursuant to Treasury Regulation Section 1.704-2(i), and this Section 7.03(f) shall be interpreted consistently therewith.

(g) The Managing Member's interest in each material item of Company income, gain, loss, deduction, and credit will be equal to at least one hundredth of one percent (0.01%) of each such item at all times during the existence of the Company.

(h) In the event the Managing Member makes an Operating Deficit Contribution in a particular year, the Managing Member shall be specially allocated the expenses paid by the proceeds of such Operating Deficit Contribution or Operating Deficit Loan, but in no event shall this Section 7.03(h) cause any depreciation deductions to be reallocated to the Managing Member.

(i) If any Member's Capital Contribution is used to fund any syndication fees or expenses referred to in Section 709 of the Code, such Member shall be specially allocated such fees or expenses.

(j) In the event that any fee payable to any Managing Member or any Affiliate shall be determined to be a non-deductible, non-capitalization distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Managing Member an amount of gross income equal to the amount of such distribution; provided, however, that no such allocation will be made if it would result in any portion of the Company Property being treated as exempt use property under Section 168(h) of the Code.

**7.04** The special allocations set forth in Sections 7.03(a), (b), (c), (d), (e), and (f) (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulation Sections 1.704-1(b) and 1.704-2. The Regulatory Allocations shall be taken into account in allocating other profits, losses and other items of income, gain, loss and deduction to the Members so that, to the extent possible, the net amount of such allocations of profits and losses and other items shall be equal to the amount that would have been allocated to each Member had the Regulatory Allocation not occurred. In the event that in any year the Regulatory Allocations alter the allocations of tax items to the Members, to the extent possible, depreciation deductions shall nevertheless be allocated ninety-nine and ninety-nine one hundredths of one percent (99.99%) to the Investor Member and one hundredth of one percent (0.01%) to the Managing Member.

**7.05 Tax Allocations: Code Section 704(c)**

(a) The respective interests of the Members in the Net Profits, Net Losses, Gain, and Loss or items thereof shall remain as set forth above unless changed by amendment to this Agreement or by an assignment of a Company Interest authorized by the terms of this Agreement. Except as otherwise provided herein, for tax purposes, all items of income, gain, loss, deduction, or credit shall be allocated to the Members in the same manner as are the corresponding items of income, gain, loss, and deduction are allocated to the Members for book purposes under Sections 7.02, 7.03, and 7.04; provided, however, that with respect to property contributed to the Company by a Member, such items shall be shared among the Members so as to take into account the variation between the basis of such property and its fair market value at the time of contribution in accordance with Section 704(c) of the Code.

(b) In accordance with Section 704(c) of the Code and the Treasury Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial fair market value (as used as book value of the property by the Company). In the event the book value of any Company property is adjusted upon: (i) acquisition of a Company interest by any Person in exchange for a capital contribution; or (ii) any non-pro rata distribution to Members of Company property other than cash; subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its book value in the same manner as under Section 704(c) of the Code. Allocations pursuant to this Section 7.03 are solely for purposes of federal, state, and local taxes and shall not

affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits or Net Losses, other items, or distributions pursuant to any provision of this Agreement.

#### **7.06 Other Allocation Rules**

(a) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulation Section 1.752-3(a)(3), the Managing Member's interest in Company profits shall equal one hundredth of one percent (0.01%) and the Investor Member's interest in Company profits shall equal ninety-nine and ninety-nine one hundredths of one percent (99.99%).

(b) If an Interest in the Company is transferred or a member becomes a member during a taxable year (including the admission of the Investor Member), net income or net loss (and any item of income, gain, loss, deduction or credit) for such taxable year allocable to the transferred or new Interest shall be allocated among the Members on an interim closing of the books basis, based upon that portion of such taxable year during which each was recognized as owning such interest and the amount of such Interest owned; provided, that such allocation must be in accordance with a method permissible under section 706 of the Code and Treasury Regulations thereunder.

### **ARTICLE VIII - CASH DISTRIBUTIONS**

#### **8.01 Distributions of Net Cash Flow**

Net Cash Flow, to the extent available and subject to any limitations imposed by the Loan Documents, shall be distributed to and among the Members, within ninety (90) days after the close of each Fiscal Year, ninety-nine and ninety-nine one-hundredths percent (99.99%) to the Investor Member and one hundredth of one percent (.01%) to the Managing Member.

#### **8.02 Distributions of Capital Proceeds**

Any Capital Proceeds other than net proceeds upon liquidation of the Company resulting from the sale of the Company Property, which shall be governed by Article XII, shall be distributed to and among the Members in the following amounts and order of priority:

- (a) To the payment of the First Priority Mortgage Loan to the extent then due thereon;
- (b) To the payment of the Bridge Loan in accordance with the Bridge Loan Note;
- (c) To fund the Replacement Reserve;
- (d) To the restoration of the minimum balance of the Operating Reserve;

- (e) To the Investor Member, an amount equal to any remaining Credit Deficiency;
- (f) To pay any unpaid Development Fee;
- (g) To the Managing Member to repay any unpaid portion of any Credit Adjuster Payment;
- (h) To the Managing Member to repay any unpaid portion of any Operating Deficit Contribution or any Operating Deficit Loan;
- (i) To the extent taxable income is allocated to the Investor Member, a percentage of the allocated taxable income equal to the highest Federal marginal tax rate applicable to the Investor Member for the calendar tax year of allocation;
- (j) To pay the Company Administration Fee;
- (k) To pay the Capital Transaction Fee; and
- (l) The balance, ten percent (10%) to the Investor Member and ninety percent (90%) to the Managing Member.

**ARTICLE IX - ADMISSION OF SUCCESSOR AND ADDITIONAL  
MANAGING MEMBERS; REMOVAL AND WITHDRAWAL OF MANAGING  
MEMBER**

**9.01 Admission of Successor or Additional Managing Members**

(a) The Managing Member shall not have any right to retire or withdraw voluntarily from the Company or to sell, transfer, or assign all or any portion of its Interest, without the Consent of the Investor Member in its sole discretion and the consent of the First Priority Mortgage Lender if required by the Loan Documents. In the event that the Consent of the Investor Member, and the consent of the First Priority Mortgage Lender if required, has been obtained by the Managing Member, the Managing Member shall designate one or more persons to be its successor. In no event shall the Interests of the other Members be affected thereby. The designated successor Managing Member shall be admitted as such to the Company upon approval of the Investor Member and the approval of the First Priority Mortgage Lender, if required, of such successor Managing Member and upon satisfying the conditions of this Article IX and Section 15.01. Any voluntary withdrawal by the Managing Member from the Company or any sale, transfer, or assignment by the Managing Member of its Interest shall be effective only upon the admission in accordance with this Section 9.01(a) and Section 15.01 of a successor Managing Member.

(b) The successor Managing Member shall pay to the Company all costs and expenses incurred in connection with such substitution, including, without limitation, legal and other costs incurred in the review and processing of the assignment, in amending this Agreement, and in filing the amended Certificate.

(c) The successor Managing Member shall by its execution of this Agreement and as a condition precedent to receiving any Interest in the Company or the Company Property agree to be bound by this Agreement, including, as appropriate, becoming a party to all the agreements that are exhibits to this Agreement to the same extent and on the same terms as the predecessor Managing Member.

(d) Upon the admission of the successor Managing Member, an amendment to this Agreement reflecting such admission, and stating the agreement set forth in Section 9.01(c) and in all respects in compliance with the requirements of the Act shall be executed and an amendment to the Certificate shall be executed and filed in accordance with the Act.

## **9.02 Removal of a Managing Member or Management Agent**

(a) The Investor Member, by Consent of the Investor Member (in its sole discretion), shall have the right to remove a managing member of the Company as the Managing Member (but not as a Member) for any of the following reasons:

(i) The Managing Member has committed an act or acts of gross negligence, willful misconduct, substantial mismanagement of the Project or Company, malfeasance, fraud or has breached this Agreement;

(ii) The Managing Member or the Company has taken any action or failed to take any action that would (A) cause the termination of the Company for federal income tax purposes, (B) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation, (C) cause the Company to fail to qualify as a limited liability company under the Act, or (D) cause the Investor Member to be liable for Company obligations in excess of its Capital Contributions;

(iii) During the Compliance Period, the Managing Member or the Management Agent has operated the Company Property or the Project in a manner so as not to qualify as a "qualified low-income housing project" under Section 42(g)(1) of the Code and upon notice by the Investor Member, has not removed and replaced the Management Agent as described below;

(iv) A filing of a foreclosure or other creditor's action or exercise of control over the Project by a lender or other creditor, or the filing of a bankruptcy petition or similar creditor's action by or against the Company or the Managing Member and such action is not vacated, discharged, stayed or bonded within one hundred twenty (120) days;

(v) The Managing Member has not complied fully with its obligations to fund Credit Adjuster Payments, and Operating Deficit Loans, unless the Guarantor has funded such obligations; or

(vi) Any other event under the Act which requires removal or withdrawal of the Managing Member.

The Investor Member shall have the right to cause the Managing Member to remove the Management Agent if (a) the Management Agent has committed acts or omissions as described in paragraph (iii) above upon sixty (60) days notice, or such longer period if such breach cannot be cured in sixty (60) days and the Managing Member and/or the Management Agent is diligently pursuing such cure, (b) if there occurs any serious problem or repair that if not corrected could have a material adverse effect upon the Company, Investor Member or the Project has not been remedied by the Management Agent to the reasonable satisfaction of the Investor Member within ninety (90) days of notice from the Investor Member to the Managing Member and Management Agent, (c) the average vacancy rate for the Project for any twenty-four (24) month consecutive period after the Stabilization Date is at least twenty percent (20%) above the average vacancy rate for comparable low-income housing units then prevailing in the area within a five (5) mile radius of the Company Property during such period or (d) the Project has not achieved Break-even operations for a period of twelve consecutive months during any twenty-four month period after the Stabilization Date.

(b) Upon the removal of the Managing Member for any reason pursuant to Section 9.02(a), such removed Managing Member and its Affiliates shall be entitled to receive any fee, pursuant to this Agreement, that has been earned by the Managing Member and its Affiliates as of the time of its removal. Notwithstanding the foregoing, any fee earned by the Managing Member and its Affiliates as of the time of its removal shall be offset by any amounts owed by the Managing Member to the Investor Member and the Company as of the date of the Managing Member's removal, and the balance of any such fee shall be paid to the Managing Member or its Affiliate, as appropriate, within sixty (60) days of such removal. In addition, except as noted above, upon any removal of a Managing Member under this Section 9.02(b), all agreements between the Company and any Affiliates of such Managing Member may, at the election of the Company, be terminated and the Company shall have no further obligation under such agreements.

(c) In the event that the Managing Member is removed, such removed Managing Member shall be and shall remain liable only for any obligations and liabilities incurred by it as Managing Member of the Company before such removal shall become effective, including but not limited to the obligations and liabilities of the Managing Member set forth in Sections 3.03, 5.13 and 5.14 of this Agreement with regard to Credit Adjuster Payments, Development Advances, and Operating Deficit Loans. Should the Project have operated at less than Stabilization for the three month period immediately preceding the removal of the Managing Member pursuant to this Section 9.02 at any time, the Managing Member shall be obligated to fund Operating Deficit Loans (up to the Maximum Operating Deficit Loan Cap (the Maximum Operating Deficit Loan Cap to be calculated using Project Expenses for the three month period ending on the last day of the month prior to the date of the Managing Member's removal)), and, once the Managing Member has funded the Operating Deficit Loans (up to the Maximum Operating Deficit Loan Cap), the Managing Member shall be released from any obligation to fund further Operating Deficit Loans. Notwithstanding anything to the contrary in this Section

9.02(c), the preceding sentence shall not require the Managing Member to fund Operating Deficit Loans with respect to Operating Deficits incurred after the date on which its removal becomes effective, even if the Managing Member is obligated to make Operating Deficit Loans under Section 5.14 relating to Operating Deficits incurred prior to the date on which its removal becomes effective.

(d) In the event the Managing Member has been removed, the Investor Member shall have the right, without the consent of any other Member, to designate a successor Managing Member and the Investor Member may, within ninety (90) days of the Managing Member's removal, elect to continue the business of the Company. In the event that the Management Agent has been removed, the Managing Member shall have the right, with the consent of the Investor Member, but subject to the approval of the Authority and the First Priority Mortgage Lender if required by the Loan Documents, to designate the Management Agent. In the event that the Management Agent has been removed and no Managing Member remains, the Investor Member shall have the right to designate the Management Agent, subject to the approval of the Authority and the First Priority Mortgage Lender if required by the Loan Documents.

(e) The Investor Member shall not have the right to exercise any of its remedies pursuant to this Section as a result of any failure or violation described in Section 9.02(a)(i)-(iii) or (v) if any Managing Member shall cure such failure or violation within ninety (90) days after notice (or up to one hundred eighty (180) days if the Managing Member is diligently pursuing the cure).

(f) Notwithstanding the foregoing to the contrary, in the event the Managing Member has been removed in connection with this Section 9.02, the Investor Member and the Company shall use commercial reasonable efforts to remove the Managing Member from any obligations or requirements associated with the Loan Documents, including, without limitation, any HUD-related responsibilities.

### **9.03 Event of Bankruptcy of a Managing Member**

(a) A Managing Member shall cease to be a Managing Member (but not a Member) upon an Event of Bankruptcy with respect to such Managing Member, or, with the Consent of the Investor Member (in its sole discretion), upon the occurrence of such Managing Member's insolvency. Upon such an Event of Bankruptcy, Managing Member or its Affiliates, as the case may be, shall be entitled to receive any fee, pursuant to this Agreement or any ancillary agreement, that has been earned by the Managing Member or its Affiliates, as the case may be, as of the time of such Event of Bankruptcy or insolvency. Notwithstanding the foregoing, any fees earned by the Managing Member and its Affiliates as of the Event of Bankruptcy shall be offset by any amounts owed by the Managing Member to the Investor Member and the Company as of the date of the Event of Bankruptcy, and the balance of any such fee shall be paid to the Managing Member or its Affiliate, as appropriate within sixty (60) days. In addition, upon any sale by a Managing Member under this Section 9.03(a), all agreements between the Company and any Affiliates of such Managing Member may, at the election of the Company, be terminated and the Company shall have no further obligation under any such agreements.



(b) If, at the time of an Event of Bankruptcy with respect to a Managing Member, such Managing Member was the sole Managing Member, the Investor Member shall have the right, in its sole discretion, but subject to the approval of the Authority and the First Priority Mortgage Lender if required in the Loan Documents, to designate the successor Managing Member and the Investor Member may, within the maximum number of days permitted by the Act after the Managing Member's ceasing to be a Managing Member of the Company, elect to continue the business of the Company.

#### **9.04 Liability of a Removed or Withdrawn Managing Member**

Any Managing Member who for any reason voluntarily or involuntarily withdraws or is removed from the Company or sells, transfers, or assigns its Interest shall be and remain liable for all obligations, liabilities, and guarantees incurred by it as a Managing Member prior to the time when the withdrawal, removal, sale, transfer, or assignment becomes effective. Such Managing Member shall continue to be liable pursuant to the provisions of Section 5.06 with respect to its acts and omissions occurring on or prior to the effective date of such withdrawal or removal.

#### **9.05 Restrictions on Transfer of Managing Member's Interest**

Notwithstanding anything to the contrary in this Article IX, the assignment or transfer of a Managing Member's Interest shall at all times be subject to any additional restrictions applicable to an assignment or transfer of the Interest of a Investor Member as set forth in Article X hereof. No assignee or transferee of all or any part of the Interest of a Managing Member shall have any right to become a Managing Member except as provided in this Article IX.

#### **9.06 Continuation of the Business of the Company**

(a) If, at the time of an event described in Section 9.02 or Section 9.03 or any other event described in the Act with respect to a Managing Member, such Managing Member was not the sole Managing Member, the remaining Managing Member or Managing Members shall elect to continue the business of the Company and shall immediately: (i) give Notice to the Investor Member of such event; and (ii) make any amendments to this Agreement and execute and file for recording any amendments or other documents or instruments necessary to reflect the termination of the Interest of the Managing Member as to which such event has occurred and such Managing Member having ceased to be a Managing Member and in order to comply with the requirements of the Act.

(b) A Person shall be admitted as a successor or additional Managing Member with the Consent of the Investor Member (in its sole discretion) if an amendment to the Certificate evidencing the admission of such Person as a Managing Member shall have been filed for recordation. Each Managing Member hereby agrees to execute promptly any such amendment to the Certificate, if required, in the event of its withdrawal or removal pursuant to the provisions of this Article IX. The election by the Investor Member to remove any Managing Member under Section 9.02 shall not limit or restrict

the availability and use of any other remedy that the Investor Member or any other Member might have with respect to any Managing Member in connection with its undertakings and responsibilities under this Agreement, and they are understood by the parties hereto to be permitted by the Act as the exercise of powers not constituting participation in the control of the business so as to convert the investor member interest of the Investor Member into a managing member interest for any purpose or to any extent.

(c) Any successor Managing Member shall, as of the date of its admission as a Managing Member, be fully obligated under all provisions of this Agreement.

## **ARTICLE X - ASSIGNABILITY OF INTERESTS OF INVESTOR MEMBER**

### **10.01 Substitution and Assignment of an Investor Member's Interest**

(a) A Investor Member may not sell, transfer, assign, pledge, or otherwise dispose of all or any part of its Interest without the Consent of the Managing Member, the granting or denying of which shall not be unreasonably withheld, and the payment by such Investor Member or its assignee of all out-of-pocket costs of such assignment including, without limitation, the costs of filing the amended certificate (if required), attorney's fees and accountant's fees, if applicable; provided, however, the Investor Member shall have the absolute right to transfer up to one hundred percent (100%) of its Interest to any entity in which Fulton serves as general partner, managing member or directly or indirectly controls the general partner or managing member or any other Affiliate, without obtaining the Consent of the Managing Member (a "Permitted Transfer") so long as the Investor Member notifies the Managing Member of such transfer within thirty (30) days of the transfer date. The Managing Member, at the sole expense of the assigning Investor Member, shall cooperate in good faith to effect a Permitted Transfer as expeditiously as possible, including without limitation the execution of appropriate amendments to, or updates of, the Project Documents and Loan Documents and/or any other documents which the assigning Investor Member reasonably determines necessary or appropriate to accomplish such Permitted Transfer, including, but not limited to, any amendments, updated corporate opinion, authorizing resolutions of the Managing Member and any other documents reasonably deemed necessary and appropriate by the Investor Member. The Company shall not be required to recognize any such assignment until the instrument conveying such Interest has been delivered to the Managing Member for recordation on the books of the Company. If an assignee of the Investor Member pursuant to this Section 10.01(a) does not become a Substitute Investor Member pursuant to Section 10.01(b), the Company shall not recognize the assignment, and the assignee shall not have any rights hereunder or any rights exercisable against the Company to receive any portion of the share of profits, losses and distributions of the Company to which the Investor Member would have been entitled if no such assignment had been made by the Investor Member. Any such profits, losses and distributions shall continue to be allocated as if there were no assignment.

(b) An assignee of the Interest of an Investor Member, or any portion thereof, shall become a Substitute Investor Member entitled to all the rights of an Investor Member if, and only if:

(i) The assignor grants to the assignee such right;

(ii) Except for those transfers permitted under Section 10.01(a), the Managing Member, with the Consent of the Investor Member, consents to such substitution, the granting or denying of which consent shall be in the sole and absolute discretion of the Managing Member prior to the payment in full of the Capital Contribution of the Investor Member and thereafter in the reasonable discretion of the Managing Member;

(iii) The assignor or assignee pays to the Company all costs and expenses incurred by the Company in connection with such substitution, including, without limitation, legal fees and costs incurred in the review and processing of the assignment, and in amending, if necessary, the Company's then current Agreement; and

(iv) The assignee executes and delivers such instruments, in form and substance satisfactory to the Managing Member, as the Managing Member may deem necessary or desirable to effect such substitution and to confirm the agreement of the assignee to be bound by all of the terms and provisions of this Agreement.

(c) Upon the admission of any Substitute Investor Member, an amendment to this Agreement, reflecting such admission, shall be executed by the Members. Such amendment shall reflect the name, address and Capital Contribution of such Substitute Investor Member, and anything else required by the Act, and shall set forth the agreement of such Substitute Investor Member to be bound by all the provisions of this Agreement. The Managing Member shall file such amended Certificate as the Act requires at the expense of the Substitute Investor Member.

(d) The Company and the Managing Member shall be entitled to treat each Person set forth on Exhibit A as the absolute owner of its Interest in all respects, and shall incur no liability for distributions of cash or other property made in good faith to such owner until such time as a written assignment of such Interest has been received and accepted by the Managing Member and recorded on the books of the Company. The Managing Member may refuse to accept an assignment until the end of the next successive quarterly accounting period

## ARTICLE XI - MANAGEMENT AGENT

### 11.01 Managing Member to Engage Management Agent

The Managing Member shall have responsibility for engaging a management agent (which may be an Affiliate of the Managing Member) acceptable to the Investor Member, the Mortgagees and any other governmental authority having jurisdiction over

the Project. The Management Agent shall manage and operate the Company Property in accordance with the requirements of the Mortgagees, any other lenders and any other governmental authority having jurisdiction with respect thereto. The Property Management Agreement attached as *Exhibit I* shall provide that if the Managing Member is removed pursuant to Section 9.02 and the Management Agent is an Affiliate of such removed Managing Member, the Property Management Agreement will terminate. Any removal of the Management Agent in accordance with Article IX hereof shall be made only upon obtaining the consents or approvals, if any, required by the Loan Documents or Project Documents. Any hiring of a new Management Agent shall be made only upon obtaining the consents or approvals, if any, required by the Loan Documents or Project Documents, with the Consent of the Investor Member. If the Managing Member shall at any time select a management agent other than the Management Agent, such successor to the Management Agent may (subject to any required consent or approval of the Investor Member or the Mortgagees) be an Affiliate of the Managing Member, but shall not be the Managing Member. An Affiliated Management Agent shall be entitled to receive such management fees at an amount equal to the fees of the removed Management Agent that are acceptable to the Mortgagees, subject to the Consent of the Investor Member. Any Non-Affiliated successor management agent shall be entitled to receive such management fees as may be agreed upon between the Managing Member and such agent, which shall be acceptable to the Mortgagees if their consent is required, and subject to the Consent of the Investor Member.

## ARTICLE XII - DISSOLUTION OF COMPANY

### 12.01 Dissolution

(a) The Company shall be dissolved, and the business of the Company shall be terminated in accordance with the Act, upon the occurrence of any of the following events:

(b) The dissolution, liquidation, withdrawal, retirement, removal, death, insanity, disability and/or Event of Bankruptcy of a Managing Member if there is no remaining Managing Member; provided, however, that the Company shall not be dissolved as aforesaid if the Investor Member shall, within the maximum number of days permitted by the Act, elect to continue the Company and the Company business, and shall designate a successor Managing Member, which upon its admission to the Company shall immediately obtain all of the Managing Member's rights to receive Net Cash Flow, Sale and Refinancing Proceeds, and the unpaid portion of any fees pursuant to this Agreement, to the extent not already earned by the Managing Member, for a purchase price equal to the balance of the Fair Market Value of the Managing Member's Interest;

(c) An election to dissolve the Company made in writing by all of the Members in accordance with the Act;

(d) The sale or other disposition of all or substantially all of the Company Property;

(e) Reserved; and

(f) The occurrence of any other event causing the dissolution of a limited liability company under the laws of the Commonwealth of Virginia.

## **12.02 Distribution of Company Assets**

Upon the dissolution of the Company, the Company business shall be wound up and its assets liquidated; and the net proceeds of such liquidation shall be distributed in the following order of priority (but in all events in accordance with the Act):

(a) To the payment of the debts and liabilities of the Company (including any amounts that may be owed to any Member) and the expenses of liquidation;

(b) To establishing any reserves that the Managing Member or liquidator, in accordance with sound business judgment, deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company, which reserves may be paid over to an escrow agent to be held by such agent for the purpose of (A) distributing such reserves in payment of the aforementioned contingencies, and (B) upon the expiration of such period as the Managing Member or such liquidator may deem advisable, distributing the balance thereof in the manner provided in this Section 12.2; and

(c) To the Members in accordance with the then remaining balances in their respective Capital Accounts after all allocation of gain and all capital account adjustments have been made pursuant to Article VII.

Notwithstanding any other provision of this Agreement, upon liquidation of a Member's entire Interest in the Company, whether in liquidation of the Company or otherwise, such Member shall receive a distribution in accordance with the positive balance in its Capital Account no later than the end of the taxable year of such liquidation or, if later, within ninety (90) days of such liquidation. Notwithstanding the foregoing, Section 3.06 shall apply with respect to any Member if the Capital Account of such Member has a negative balance.

## **12.03 Termination of the Company**

The Company shall terminate when all Company Property shall have been disposed of (except for any liquid assets not so disposed of), and the net proceeds therefrom, as well as any other liquid assets of the Company, have been distributed to the Members as provided in this Article XII and in accordance with the Act.

# **ARTICLE XIII - ACCOUNTING AND REPORTS**

## **13.01 Bank Accounts**

The Managing Member shall deposit the funds of the Company in the name of the Company in such separate bank account or accounts maintained with Fulton Bank, N.A.,

whose deposits are insured by an agency of the federal government. The Managing Member shall arrange for the appropriate conduct and operation of such account or accounts.

### **13.02 Books of Account**

There shall be kept at the principal office of the Company true, correct, and complete books of account, maintained in accordance with generally accepted accounting principles, consistently applied, in which shall be entered fully and accurately each and every transaction of the Company. For federal income tax and financial reporting purposes, the Company shall use the accrual method of accounting. Each Member shall have access thereto to inspect and copy such books of account at all reasonable times. Any Member shall further have the right to a private audit of the books and records of the Company, provided that such audit is made at the expense of the Member desiring the same and is made at reasonable times during normal business hours after due Notice. The Company shall retain all books and records for the longest of the period required by applicable laws and regulations, Section 42 of the Code, the Project Documents and Loan Documents, but in all cases, until all tax years occurring during the Compliance Period are not subject to a federal income taxation audit.

### **13.03 Reports**

(a) The Managing Member shall cause to be prepared and delivered to the Investor Member and, when required, shall cause the Company to file with relevant governmental agencies, each of the following:

(i) *Quarterly Financial Reports of the Company.* As soon as available and in any event not later than sixty (60) days after the end of the first, second and third quarters of each year to be completed:

1. unaudited financial statements of the Company, certified by the Managing Member as presenting fairly the financial condition of the Company at the date of such statements including 1) the balance sheet as of the end of such quarter, and 2) the year-to-date statement of operations compared to the budget. Such unaudited financial statements shall be prepared in accordance with generally accepted accounting principles applied on a consistent basis; and
2. copies of 1) the rent rolls for the Project indicating the rent, 2) bank statements, 3) reserve activity, 4) status report and narrative description of material developments and 5) vacancy report.

(ii) *Annual Audited Financial Statements of the Company.* As soon as available and in any event not later than one hundred twenty (120) days after the end of each year:

3. the audited financial statements of the Company, as of the end of such year, including the balance sheet, and the related statement of operations, statement of changes in Members' capital accounts and statement of cash flows and disclosure of any compensation paid to or for the benefit of the Managing Member or its Affiliates with the report of the Accountants thereon to the effect that such statements present fairly the financial position at the end of such year and the results of its operations and changes in financial position for the year then ended in conformity with generally accepted accounting principles applied on a consistent basis;

4. copies of (1) the rent rolls for the Project indicating the rent, (2) the bank statements, (3) status report and narrative description of material developments and (4) vacancy report.

(iii) Annual Company Return. As soon as available and in any event not later than one hundred twenty (120) days after the end of each year, all information necessary for the preparation of the Investor Member's federal income tax return for each year in respect of income, gains, losses, deductions, or credits and the allocation thereof to each Member, including a Form K-1 (or other comparable form subsequently required by the IRS) and a copy of the federal "Company Return" and any state or local Company tax return required to be filed by the Company.

(iv) Periodic Reports Requiring Investor Member Approval. Any and all periodic reports required to be provided to the Investor Member by any federal, state, or local government agency having jurisdiction over the Project, the Company Property, or the Company.

(v) Notice of Defaults, IRS Proceedings and Significant Developments. Within fifteen (15) days upon receipt thereof (A) notice of any default under any Loan or financial obligation of the Company, (B) notice of any IRS proceeding involving the Company, (C) any payment or draw made under any operating deficit guaranty, construction completion guaranty, performance bond or letter of credit, and any other significant developments affecting the Company, its business or assets, or (D) notice of any default provided by the Authority.

(vi) Deficits; Draws on Bonds, Guaranties, or Reserves. Within fifteen (15) days of the exercise thereof, call or demand for payment of any Operating Deficit, contractor performance bonds or construction completion guarantee, and any draw on the Operating Reserve.

(vii) Construction Draw Requests and Meeting Minutes. Prior to the Completion Date, all approved construction draw requests and copies of all construction meeting minutes.

(viii) Tenant Certifications. Prior to the due date (subject to any extensions) of the Company's federal income tax return for the year all Units in the Project are placed in service, documentation evidencing review by a third party of the initial tenant files for all Units and such third party's determination that all Units were initially occupied by Qualified Tenants. Such third party reviewer shall be selected by the Managing Member subject to the Consent of the Investor Member.

(ix) Annual Budget. An annual pro forma operating budget for the succeeding calendar year promptly after the preparation of same.

(b) The Managing Member shall promptly respond to all reasonable requests for information made by the Investor Member not otherwise specifically required by this Agreement. The Investor Member shall bear all costs of compliance with and preparation of responses to the Investor Member's requests for information.

(c) The Managing Member shall deliver to the Investor Member from time to time, and within twenty (20) days after request therefore, all such further statements and information as the Investor Member may request in order to enable the Investor Member to determine or verify the amounts of all payments that the Managing Member shall be required to make to the Members and the amounts of credits, and all such statements and information needed by the Investor Member in connection with reports and forms required to be filed by the Investor Member pursuant to federal or state securities law.

#### **13.04 Tax Matters Member**

(a) The Tax Matters Member shall serve as the "tax matters partner" of the Company and perform all of the duties required of the "tax matters partner" under the Code, including the obligations under Sections 5.01(c) and 5.03(c) and the following duties:

(i) Furnish the name, address, profits interest, and taxpayer identification number of each Member to the IRS as necessary; and

(ii) Within fifteen (15) calendar days after the receipt of any material correspondence or communication relating to the Company or a Member from the IRS, the Tax Matters Member shall forward to each Member a photocopy of all such correspondence or communication(s). The Tax Matters Member shall, within fifteen (15) calendar days thereafter, advise each Member in writing of the substance and form of any conversation or communication held with any representative of the IRS.

(b) The Tax Matters Member shall not without the Consent of the Investor Member with respect to amounts in controversy or tax items in the aggregate for any taxable year exceeding \$25,000:



(i) Extend the statute of limitations for assessing or computing any tax liability against the Company (or the amount or character of any Company tax items);

(ii) Settle any audit with the IRS concerning the adjustment or readjustment of any Company tax item(s);

(iii) File a request for an administrative adjustment with the IRS at any time or file a petition for judicial review with respect to any such request;

(iv) Initiate or settle any judicial review or action concerning the amount or character of any Company tax item(s);

(v) Intervene in any action brought by any other Member for judicial review of a final adjustment; or

(vi) Take any other action not expressly permitted by this Section 13.04 on behalf of the Members or the Company in connection with any administrative or judicial tax proceeding.

(c) In the event of any Company-level proceeding instituted by the IRS pursuant to Sections 6221 through 6233 of the Code, the Tax Matters Member shall consult with the Investor Member regarding the nature and content of all action and defense to be taken by the Company in response to such proceeding. The Tax Matters Member also shall consult with the Investor Member regarding the nature and content of any proceeding pursuant to Sections 6221 through 6233 of the Code instituted by or on behalf of the Company (including the decision to institute proceedings, whether administrative or judicial, and whether in response to a previous IRS proceeding against the Company or otherwise).

(d) For tax years beginning after December 31, 2017, the Tax Matters Member shall serve as the “Partnership Representative” as described in Code Section 6223. The Partnership Representative will be subject to the same terms and conditions imposed on the Tax Matters Member pursuant to this Agreement. Effective for tax years beginning after December 31, 2017, if the Company receives a notice of final partnership adjustment from the IRS, the Partnership Representative shall, within forty-five (45) days of receipt of such notice, make the election described in Code Section 6226(a) to not have Code Section 6225 apply with respect to any underpayment of tax liability. Pursuant to such election, any final partnership adjustments shall be taken into account by each Member in accordance with Code Section 6226(b). If for any tax year after December 31, 2017 the Company meets the requirements of Code Section 6221(b) to elect not to have Code Section 6221(a) apply with respect to any adjustment to Company tax items, the Tax Matters Partner or Partnership Representative shall make such election described in Code Section 6221(b) for each tax year, as applicable.

## ARTICLE XIV - PUT OPTION

### 14.01 Reserved

### 14.02 Put Option

(a) At all times after the end of the Compliance Period, the Investor Member shall have the option to notify the Managing Member in writing of the Investor Member's Company to exercise its right to sell the Investor Member's entire Interest in the Company to the Managing Member (the "Put") for a purchase price equal to \$1,000.00 plus and any other accrued but unpaid amounts payable, by the Company or the Managing Member to the Investor Member or any Affiliate thereof pursuant to the terms of this Agreement (the "Put Price"). The Put shall be exercisable upon at least fifteen (15) days and not more than ninety (90) days prior written Notice to the Managing Member (the "Put Notice"). The Investor Member shall not be responsible for any costs, other than documentation preparation costs, incurred in connection with the exercise of the Put. The Company and the Investor Member agree to cooperate to document appropriately the transaction. The Managing Member shall be obligated to pay the Put Price at the closing in cash or immediately available funds.

(b) All costs associated with the exercise of the Put Option, including the Accountants' fees and any filing fees, shall be paid by the Managing Member.

## ARTICLE XV - MISCELLANEOUS PROVISIONS

### 15.01 Amendments to Agreement

(a) Each Member, including any additional Investor Member and Substitute Investor Member, additional Managing Member, and successor Managing Member shall become a signatory hereto by signing counterpart signature pages to this Agreement or an amendment to this Agreement or by granting a power of attorney to the Managing Member therefor, and by signing any other instrument or instruments deemed necessary by the Managing Member. By so signing, each Member, including any additional Investor Member and Substitute Investor Member, additional Managing Member, or successor Managing Member, as the case may be, shall be deemed to have adopted, and to have agreed to be bound by, all the provisions of this Agreement.

(b) No amendments shall be adopted pursuant to this Section 15.01 unless the adoption of such amendment does not affect the limited liability of the Investor Member under the Act or the status of the Company as a partnership for federal income tax purposes, or cause loss or recapture of the Credit for any member that has not transferred its Company Interest.

(c) In making any amendments, there shall be prepared and timely filed for recordation by the Managing Member all documents and certificates required to be prepared and filed under the Act and under the laws of any other jurisdiction in which the Company is then formed or qualified.

(d) The proposal of an amendment may only be made:

(i) By the Managing Member, upon Notice to the Investor Member which shall include (A) the text of the amendment and (B) a statement of the purpose of the amendment, such amendment will not affect the limited liability of the Investor Member, such amendment will not adversely affect the classification of the Company as a partnership for federal income tax purposes, and such amendment will not result in any loss or recapture of the Credit or loss of future anticipated Credit reflected in the Projections (or, if they have been prepared, the Revised Projections) for any Member that has not transferred its Company Interest.

(ii) By the Investor Member, upon Notice to the Managing Member which shall include (A) the text of such amendment and (B) a statement of the purpose of the amendment, and such amendment will not adversely affect the classification of the Company as a partnership for federal income tax purposes.

(e) Within thirty (30) days after Notice is given pursuant to Section 15.01(d), each Member shall consent to or reject, in writing, the proposed amendment. Amendments to this Agreement shall become effective only upon the Consent of the Managing Member and the Consent of the Investor Member unless such Consent has been given under the terms of this Agreement.

## **15.02 Notices**

All Notices to be given under this Agreement shall be sent to the Persons shown on Exhibit A-5. Any Member may change its Notice address by providing Notice thereof to all other Members.

## **15.03 Meetings of the Company**

(a) Meetings of the Company may be called by the Managing Member or by the Investor Member for any matters upon which the Members may vote, as set forth in this Agreement. The calling of a meeting shall be made:

(b) By the Managing Member, which shall give Notice to the Investor Member, which Notice shall include (i) a statement of the purposes of the meeting, and (ii) the date of the meeting which shall be a date no fewer than fifteen (15) days and no more than thirty (30) days after the date of the Notice;

By the Investor Member, which shall give Notice to the Managing Member, which Notice shall include a statement of the purposes of the meeting. No more than fifteen (15) days after receipt of such Notice, the Managing Member shall provide Notice of the meeting to the Investor Member in accordance with Section 15.3(a).

## **15.04 Action for Breach**

The representations, warranties, covenants, agreements, and duties of the Managing Member contained in this Agreement are being made in order to induce, and in consideration of, the Investor Member's acquisition of its Interests. Upon the material breach of any representation, warranty, covenant, agreement, or duty, the Investor Member, if decided by Consent of the Investor Member, may pursue any available legal or equitable remedy against the Managing Member without being required to dissolve the Company and notwithstanding the availability of any other remedy, provided, however, that any monetary damages recoverable from the Managing Member with respect to damages relating to the Credit Adjuster Payments or Operating Deficit Loans shall be limited as provided in this Agreement.

#### **15.05 Consent and Voting**

No vote or Consent of the Investor Member shall ever be construed to make the Investor Member liable as a general partner or cause the Investor Member to be liable for Company obligations.

#### **15.06 Survival of Representations**

All representations, warranties, and indemnifications contained herein shall survive the dissolution and final liquidation of the Company.

#### **15.07 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.

#### **15.08 Applicable Law**

It is the intention of the parties hereto that all questions with respect to the construction, enforcement, and interpretation of this Agreement and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Commonwealth of Virginia without regard to principles of conflicts of laws.

#### **15.09 Severability**

This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable statutes, laws, ordinances, rules, and regulations. If any provision of this Agreement or the application thereof to any Person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law. In the event that any provision of this Agreement or the application thereof shall be invalid or unenforceable, the Members agree to negotiate (on a reasonable basis) a substitute valid or enforceable provision providing for substantially the same effect as the invalid or unenforceable provision.

### **15.10 Binding Effect**

When entered into by the parties hereto, this Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective spouses, heirs, executors and administrators, personal and legal representatives, successors and assigns.

### **15.11 Counterparts**

This Agreement and any amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

### **15.12 Successor Statutes and Agencies**

Any reference contained in this Agreement to specific statutory or regulatory provisions or to specific governmental agencies or entities shall include any successor statute or regulation, or agency or entity, as the case may be.

### **15.13 No Implied Waiver**

No failure on the part of any Member to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the party claimed to have so waived or excused.

### **15.14 Incorporation by Reference**

Each document attached hereto as an exhibit is incorporated herein by reference and an occurrence of a default under an exhibit hereto shall constitute a default under this Agreement.

[signature page follows]

**BWF GLEN ARBOR, LLC  
FIRST AMENDED AND RESTATED OPERATING AGREEMENT**

**Signature Page**

**BWF GLEN ARBOR MM, LLC**  
a Virginia limited liability company

**By: Bonaventure Wealth Fund, LLC, a Virginia  
liability company, its sole member**

**By:**   
Name: Dwight D. Dunton, III  
Title: Managing Member

**BWF GLEN ARBOR, LLC  
FIRST AMENDED AND RESTATED OPERATING AGREEMENT**

**Signature Page**

Fulton Bank, N.A.  
Investor Member

By: 

Name: Tracy F. Fletcher

Title: Vice President

**BWF GLEN ARBOR, LLC**  
**Exhibit A**

**MEMBERS; PERCENTAGE INTERESTS;**  
**CAPITAL CONTRIBUTION COMMITMENTS**

	<u>Percentage Interests</u>	<u>Capital Contributions*</u>
Managing Member	.01%	\$1,000
Investor Member	99.99%	\$10,218,729
<b>TOTALS</b>	<b>100%</b>	<b>\$10,219,729</b>

\*The Capital Contribution of the Investor Member will be paid in Installments as described on Exhibit A-1. Each Additional Capital Contribution is due on the later of the scheduled due date or five (5) days after receipt and approval by the Investor Member of an Additional Capital Contribution Notice given by the Managing Member, including the Notice Certifications in substantially the form attached as Exhibit A-7, in accordance with Section 3.02(c). In addition, the Capital Contributions are subject to reduction or increase as provided in this Agreement.



**BWF GLEN ARBOR, LLC**

**Exhibit A-1**

**Investor Member Capital Contribution Installments**

<u>Installment</u>	<u>Amount of Installment</u>	<u>Due Date of Contribution</u>
First	\$2,043,746	Admission Date
Second	\$1,021,873	Upon delivery of a certificate from the Architect certifying 20% Completion of the Project
Third	\$1,021,873	Upon delivery of a certificate from the Architect certifying 40% Completion of the Project
Fourth	\$1,021,873	Upon delivery of a certificate from the Architect certifying 60% Completion of the Project
Fifth	\$2,043,746	Upon delivery of a certificate from the Architect certifying 80% Completion of the Project
Sixth	\$2,043,746	Upon delivery of a certificate from the Architect certifying 100% Completion of the Project
Seventh	\$510,936	Later of (a) initial occupancy of 100% of the Units or (b) receipt and approval of Cost Certification by the Limited Partner.
Eighth	\$510,936	Latest of: (a) receipt and approval by the Investor Member of IRS Form 8609; (b) receipt by the Investor Member of a satisfactory third-party review of the initial tenant files for all of the Project's Units indicating that all Units were initially occupied by Qualified Tenants, or (c) the achievement of Stabilization Date for the Project.
TOTAL	\$10,218,729	

EXHIBIT A-1

Note: Defined terms used in this Exhibit A-1 have the meanings set forth in the Agreement.

EXHIBIT A-1

**BWF GLEN ARBOR, LLC**

**Exhibit A-2**

**Fixed Dollar Amounts**

<u>Reference Term</u>	<u>Section Reference</u>	<u>Amount</u>
Annual Credit Allocation	5.10(xviii)	\$1,058,936
Operating Reserve Amount	5.14 (Exh A-6)	\$1,425,174

EXHIBIT A-2

**BWF GLEN ARBOR, LLC**

**Exhibit A-3**

**Loans to the Project**

<u>Mortgage Priority</u>	<u>Lender</u>	<u>Loan Amount</u>
First	Prudential Huntoon Paige Associates, LLC	\$31,755,000
N/A	Bonaventure Wealth Fund, LLC	\$4,000,000

EXHIBIT A-3

**BWF GLEN ARBOR, LLC**

**Exhibit A-4**

**Fees; Priority Uses of Cash Flow**

<u>Fee</u>	<u>Governing Agreement</u>	<u>Fee Recipient</u>
Development Fee	Amended and Restated Development Services Agreement	Bonaventure Development, LLC
Property Management Fee	Property Management Agreement	Bonaventure Property Management Services, LLC
Company Administration Fee	Company Administration Agreement	Managing Member

Payments contingent on Cash Flow shall be made in the following order of priority:

First, amounts necessary to repay the First Priority Mortgage Loan in accordance with the First Priority Mortgage Loan Documents;

Second, amounts necessary to repay the Bridge Loan in accordance with the Bridge Loan Note;

Third, to make required contributions to the Replacement Reserve;

Fourth, to fund the Operating Reserve, if drawn down below a balance of \$1,140,139, up to a balance of \$1,425,174 after the Capital Contributions of the Investor Member have been paid;

Fifth, to the Investor Member, an amount equal to any remaining Credit Deficiency;

Sixth, to pay the Deferred Development Fee in accordance with the Development Services Agreement, attached hereto as Exhibit C;

Seventh, to the payment of any unpaid Credit Adjuster Payments;

Eighth, from the remaining Cash Flow in the following priority:

(a) to the Managing Member to repay any Operating Deficit Loans and Credit Adjuster Payments;

(b) To the extent taxable income is allocated to the Investor Member, a percentage of the allocated taxable income equal to the highest Federal marginal tax rate applicable to the Investor Member for the calendar tax year of allocation;

(c) to pay the Company Administration Fee in accordance with the Company Administration Agreement, attached hereto as Exhibit E; and

(d) Any remaining Cash Flow shall constitute Net Cash Flow which is distributable to the Members in accordance with Section 8.01 of this Agreement.

**BWF GLEN ARBOR, LLC**

**Exhibit A-5  
Notice Addresses**

Managing Member

BWF Glen Arbor, LLC  
2700 S. Quincy Street  
Suite 500  
Arlington, VA 22206  
Email: investor@bonaventure.com  
Attention: Dwight D. Dunton, III

With a copy to:

J. Conrad Garcia, Esq.  
Williams Mullen  
200 South 10<sup>th</sup> Street  
Richmond, VA 23219  
Tel: (804) 420-6910  
Email: cgarcia@williamsmullen.com

Investor Member

Fulton Bank, N.A.  
c/o Fulton Financial Corporation  
1 Penn Square  
Lancaster, PA 17602  
Telephone: (717) 327-2329  
Email: bdemild@fult.com  
Attn: Brian DeMild

With a copy to:

Sean B. Frederick, Esq.  
Barley Snyder LLP  
126 E. King Street  
Lancaster, PA 17602  
Tel: (717) 399-1505  
Email: sfrederick@barley.com

## BWF GLEN ARBOR, LLC

### Exhibit A-6 Company Reserves

The Managing Member shall establish the following reserves in the name of the Company:

(i) *Operating Reserve.* An Operating Reserve equal to the Operating Reserve Amount to be funded on the Closing Date of the HUD Insured Loan (but no later than the Final Installment) to be held by the Lender until the earlier of the Completion Date or the date that Lender releases the funds in the Operating Reserve. In addition, the Managing Member shall fund the Operating Reserve from Cash Flow (calculated for this sole purpose prior to deducting contributions to the Operating Reserve) in order to maintain, to the extent possible, a balance at all times in the Operating Reserve equal to the Operating Reserve Amount. The Operating Reserve shall be deposited in an account in accordance with the First Priority Mortgage Loan Documents or, if the Loan Documents do not specify, in an interest-bearing account to be maintained under an escrow agreement with Fulton Bank, N.A. The Managing Member shall not make a withdrawal from the account without the First Priority Mortgage Lender's consent, if required, and the consent, which shall not be unreasonably withheld, delayed or conditioned, of the Investor Member to such withdrawal. Notwithstanding the foregoing, any interest earned on the Operating Reserve shall be retained and utilized by the Company either as an addition to the Operating Reserve or as provided in the First Priority Mortgage Loan Documents. The Managing Member may use funds in the Operating Reserve (but only after the Completion Date), with the consent of the First Priority Mortgage Lender, if required, and the Investor Member, to fund Operating Deficits and to the extent the Put Option is exercised (as described in Section 14.2, for the funding the Put Price). The Operating Reserve shall be maintained as provided in the First Priority Mortgage Loan Documents and this Agreement. Upon termination and winding up of the Company, subject to the provisions of Section 12.2, the balance in the Operating Reserve shall be used first to pay the Deferred Development Fee and then released as Cash Flow with the Mortgagees' consent if required under the Loan Documents.

(ii) *Replacement Reserve.* A Replacement Reserve initially funded at the date of Closing in the amount of \$240,350 and thereafter to be funded in the amount of \$325 per unit per year, beginning upon the date required in the Loan Documents but in no case upon a date which is later than eighteen (18) months following the Admission Date. The Company shall utilize amounts in the Replacement Reserve to fund major repair, capital expenditures and replacement of capital items in the Project. The Replacement Reserve shall be deposited in an account in accordance with the First Priority Mortgage Loan Documents or, if the Loan Documents do not specify, in an interest-bearing account to be maintained under an escrow agreement with Fulton Bank, N.A. Any interest earned on the Replacement Reserve shall be added to the Replacement Reserve and such interest may be withdrawn by the Managing Member if permitted by the First Priority Mortgage Loan Documents and this Agreement. Upon any sale of the Project, amounts in the Replacement Reserve shall be utilized first to pay any outstanding balance of the First Priority Mortgage Loan and then to make any capital expenditures, repairs or improvements in connection with such sale or other uses approved by the Investor Member.

(iii) *Tenant Relocation Assistance Reserve.* A Tenant Relocation Assistance Reserve of \$293,100 to be funded no later than the PIS Date from the First Installment of the Investor

EXHIBIT A-6

Member's Capital Contribution. The Tenant Relocation Assistance Reserve shall be deposited in an interest-bearing bank account in Fulton Bank, N.A. Interest earned on the Tenant Relocation Assistance shall be added to the Tenant Relocation Assistance Reserve. Upon achievement of Stabilization, any balance remaining in the Tenant Relocation Assistance shall be first to pay the Deferred Development Fee and then distributed in accordance with Exhibit A-4.



**BWF GLEN ARBOR, LLC**  
**Exhibit A-7**  
**Notice Certifications**

As a condition of payment of the Additional Capital Contribution of \$ \_\_\_\_\_ which may be all or a portion of the \_\_\_\_\_ Installment of the Investor Member, the Managing Member hereby certifies that the following representations and warranties remain true, correct and not misleading as of the date set forth below. The following certifications (i) - (viii) in this Exhibit A-7 are hereinafter referred to as "Notice Certifications."

(i) *No Defaults; Documents in Force; No Jeopardizing Events.* No default has occurred and is continuing beyond any applicable cure or grace period under any Loan Document, Project Document or the Agreement that jeopardizes, or is likely to jeopardize, the ability of the Company to continue to operate the Project as housing eligible for the Credits.

(ii) *No Bankruptcies.* No Event of Bankruptcy has occurred and is continuing with respect to the Managing Member or any of its Affiliates.

(iii) *No Breach.* The Managing Member is not in breach of any material provision of the Agreement to be observed or performed by it, including, but not limited to, all representations, warranties, and covenants given by the Managing Member, pursuant to this Agreement which is likely to jeopardize the ability of the Company to continue to operating the Project as housing edible for the Credits and all representations and warranties herein remain true and correct in all material respect as of the date hereof.

(iv) *No Material Adverse Change.* Since the date of the Agreement, there has been no material adverse change with respect to the Company, the Project, the Managing Member or the Developer.

(v) *Document Compliance.* All documents required by Section 13.03 of the Agreement to be provided to the Investor Member as of such date have been delivered to the Investor Member.

(vi) *No Audit.* There is no ongoing audit by the IRS in which the IRS is asserting, by means of a thirty day letter, that the Credit available to the Company for any taxable year is less than ninety percent (90%) of the amount of Credit claimed by the Company for that year or that all or a portion of the Credit claimed with respect to any prior taxable year(s) must be recaptured pursuant to Section 42(j) or other relevant sections of the Code, or is unavailable to the Company.

(vii) *Lien-Free Completion.* Only with respect to Notice Certifications submitted in connection with the Third Installment, construction of the Project has been completed and either the Project is free and clear of all mechanics', materialmen's or similar liens (or will be bonded off to the reasonable satisfaction of the Investor Member) or the Project will be free and clear of all mechanics', materialmen's or similar liens upon receipt by the Company of the Fourth Installment of the Investor Member's Capital Contribution.

(viii) *Supplemental Documentation.* Only with respect to Notice Certifications submitted in connection with the \_\_\_\_\_ Installment, the following documents will be submitted as attachments to the Notice Certifications: a final Form 8609 issued by the Authority with respect to the Project; a copy of the report issued in conjunction with the independent third party review of the initial tenant files; a copy of the Revised Projections. A

EXHIBIT A-7

statement by the Managing Member indicating that it is in agreement with the calculation of the Investor Member's equity contribution as set forth in the Revised Projections.

(ix) *All Prerequisites Satisfied.* The preconditions to payment of the Additional Capital Contribution described on Exhibit A-1 to the Agreement have occurred.

\_\_\_\_\_  
Date

BWF GLEN ARBOR, LLC

By: BWF GLEN ARBOR MM, LLC  
a Virginia limited liability company, its  
managing member

By: Bonaventure Wealth Fund, LLC, a Virginia  
liability company, its sole member

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

**BWF GLEN ARBOR, LLC**  
**Exhibit A-8**  
**Significant Tax and Accounting Information**

<u>Information Required</u>	<u>Data</u>
Taxpayer Identification Numbers	
Company	
Investor Member	23-1928421
Quarterly Reporting Deadlines	
1st quarter	5/31/xx
2nd quarter	08/31/xx
3rd quarter	11/30/xx
Annual Reporting Deadline	
Final tax return and audited financial statements	04/01/xx
Depreciable lives	
Building	27.5 years
FF&E	5 years
Site Improvements	15 years

EXHIBIT B

## Exhibit B

### LEGAL DESCRIPTION OF COMPANY PROJECT

BEGINNING for the same at a concrete monument found at the Northeast corner of the property of Jack Diener, said point also being on the Southwesterly line of a public street known as Silverwood Lane (formerly Mays Lane) 30 feet wide, thence leaving the Southwesterly line of Silverwood Lane and running with the 1st line of Diener, Deed Book 539, Page 760 and with the common division line of the properties of Jack Diener, Deed Book 539, Page 760, and the property of A. J. Dvoskin, Trustee, Deed Book 479, Page 25 and the property of the Ravensworth Corporation, as delineated on a plat recorded in Deed Book 19, Page 56,

(1) South 22 degrees 09 minutes 09 seconds West 1631.15 feet to a concrete monument found, said point being the Southeast corner of the property of Jack Diener, Deed Book 539, Page 760, said point also being the Southwest corner of the property of the Ravensworth Corporation, as delineated on the aforesaid Plat recorded in Deed Book 19, Page 56, said point also being on the line of the property of (now or formerly) Vernon David Dawson and John Wallace Dawson, Deed Book 285, Page 412, thence running with the common division line of Jack Diener and the properties of (now or formerly) Vernon Davis Dawson, Deed Book 285, Page 412, and the property of (now or formerly) James Richardson Canfield and Betty Taylor Canfield, his wife, Deed Book 324, Page 444 and with the 2<sup>nd</sup> line of Diener, Deed Book 539, Page 760.

(2) North 44 degrees 26 minutes 46 seconds West 447.74 feet to a concrete monument found, said point being the Southwest corner of the property of Jack Diener, Deed Book 539, Page 760, said point also being on the nest Southeasterly line of Lot 628 as delineated on a plat of subdivision entitled "Marumsco Hills," Section 2-B recorded among the aforesaid Land Records in Deed Book 282, Pages 285, 286 and 287, thence running with the 3rd line of Diener, Deed book 539, Page 760 and with the most southeasterly lines of Lots 628 through 644-A inclusive of the aforesaid plat of Marumsco Hills, Section 2-B,

(3) North 23 degrees 05 minutes 44 seconds East 1399.92 feet to a concrete monument; found, said point being on the Southwesterly line of Silverwood Lane (formerly Mays Lane), thence running with, the said line of Silverwood Lane, and with the 4th line of Diener, Deed Book 539, Page 760,

(4) South 75 degrees 42 minutes 50 seconds East 391.56 feet to the place of beginning, containing an area of 13.9112 acres of land, more or less, in accordance with a Survey by Sidney F. Hoffman and Associates, dated April 15, 1970 and re-certified correct September 13, 1971.

## Exhibit C

### DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (this "**Agreement**") is made and entered into effective as of the 1<sup>st</sup> day of May, 2017, by and between BWF GLEN ARBOR, LLC, a Virginia limited liability company (the "**Company**"), and BONAVENTURE DEVELOPMENT, LLC (the "**Developer**").

#### WITNESSETH:

WHEREAS, the Company has been formed for the purposes, inter alia, of acquiring, financing, owning, rehabilitating, developing, maintaining, improving, operating, leasing and selling or otherwise disposing of certain real property, improvements, furnishings, equipment and personal property known as Glen Arbor Apartments, located on land at 1901 Stevens Road, Woodbridge, VA 22191 (the "**Project**"), which Project is intended to be rehabilitated in a manner that will qualify for the low income tax credit (the "**Low Income Tax Credit**") described in Section 42 of the Code; and

WHEREAS, in order to effectuate the purposes for which it has been formed, the Company desires to engage the services of the Developer with respect to overseeing the development and rehabilitation of the buildings comprising the Project (collectively, the "**Buildings**") for the Company.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. ***Obligations of the Developer.*** The Developer shall have the following duties, to the extent they have not already been performed:

(a) The Developer shall oversee the development and rehabilitation of the Buildings (the "**Rehabilitation**") and shall perform the services and carry out the responsibilities with respect to the Rehabilitation as are set forth herein, and such additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities and are designated from time to time by the Managing Member of the Company.

(b) The Developer's services shall be performed in the name and on behalf of the Company and shall consist of the duties set forth in the following subparagraphs of this Section 1(b) and as provided elsewhere in this Agreement; provided, however, that if the performance of any duty of the Developer set forth in this Agreement is beyond the reasonable control of the Developer, the Developer shall nonetheless be obligated to use its best efforts to perform such duty and promptly notify the Managing Member that the performance of such duty is beyond its reasonable control. The Developer has performed or shall perform the following:

(i) negotiate and cause to be executed in the name and on behalf of the Company agreements for architectural, engineering, testing or consulting services for the Project, and any agreements for the Rehabilitation and any improvements to be constructed or installed by the

Company or the furnishing of any supplies, materials, machinery or equipment therefor, or any amendments thereof, provided that no agreement shall be executed, nor binding commitment made, until the terms and conditions thereof and the party with whom the agreement is to be made have been approved by the Managing Member;

(ii) establish and implement appropriate administrative and financial controls for the design and Rehabilitation, including but not limited to:

(iii) coordination and administration of the Project architect, the general contractor and other contractors, professionals and consultants employed in connection with the Rehabilitation;

(iv) administration of any construction contracts on behalf of the Company;

(v) participation in conferences and the rendering of such advice and assistance as will aid in developing economical, efficient and desirable design and construction procedures;

(vi) rendering of advice and recommendations as to the selection procedures for and selection of subcontractors and suppliers;

(vii) review and submission to the Managing Member for approval of all requests for payments under any architectural agreement, general contractor's agreement or any loan agreements with any lending institutions providing funds for the benefit of the Company for the design or construction of any improvements;

(viii) submission of any suggestions or requests for changes which could in any reasonable manner improve the design, efficiency or cost of the Rehabilitation;

(ix) compliance with all terms and conditions applicable to the Company or the Rehabilitation contained in any governmental permit or approval required or obtained for the lawful rehabilitation of the Buildings, or in any insurance policy affecting or covering the Project, or in any surety bond obtained in connection with the Project;

(x) furnishing such consultation and advice relating to the Rehabilitation as may be reasonably requested from time to time by the Managing Member;

(xi) giving or making the Company's instructions, requirements, approvals and payments provided for in the agreements with the Project architect, general contractor and other contractors, professionals and consultants in connection with the Rehabilitation; and

(xii) at the Company's expense, filing on behalf of and as the attorney-in-fact for the Company any notices of completion required or permitted to be filed upon the completion of any improvement(s) and taking such actions as may be required to obtain any certificates of occupancy or equivalent documents required to permit the occupancy of dwelling units and other space in the project;

(xiii) inspecting the progress of the Rehabilitation, including verification of the materials and labor being furnished to and on such construction so as to be fully competent to

approve or disapprove requests for payment made by the Project architect and the general contractor, or by any other parties with respect to the Rehabilitation, and in addition to verify that the same is being carried out substantially in accordance with the plans and specifications approved by the Managing Member or, in the event that the same is not being so carried out, to promptly so notify the Managing Member;

(xiv) if requested to do so by the Managing Member, perform on behalf of the Company all obligations of the Company with respect to the Rehabilitation contained in any loan agreement or security agreement entered into in connection with any construction financing for the Rehabilitation or in any agreement entered into with any governmental body or agency relating to the terms and conditions of such construction, provided that copies of such agreements have been provided by the Company to the Developer, or the Company has otherwise notified the Developer in writing of such obligations;

(xv) to the extent requested to do so by the Managing Member, prepare and distribute to the Managing Member a critical path schedule, and periodic updates thereto as necessary to reflect any material changes, but in any event not less frequently than quarterly, other design or construction cost estimates as required by the Managing Member, and financial accounting reports, including monthly progress reports on the quality, progress and cost of construction and recommendations as to the drawing of funds from any loans arranged by the Company to cover the cost of the Rehabilitation;

(xvi) assist the Company in obtaining and maintaining insurance coverage for the Project, the Company and its employees during the Rehabilitation, which insurance shall include general public liability insurance covering claims for personal injury, including but not limited to bodily injury, or property damage, occurring in or upon the Project or the streets, passageways, curbs and vaults adjoining the Project;

(xvii) assemble and retain all contracts, agreements and other records and data as may be necessary to carry out the Developer's functions hereunder;

(xviii) coordinate and administer the design and construction of all interior improvements to be constructed or furnished with respect to the Rehabilitation;

(xix) use its best efforts to accomplish the timely completion of the Rehabilitation in accordance with the approved plans and specifications and the time schedules for such completion approved by the Managing Member;

(xx) at the direction of the Managing Member, implement any decisions of the Managing Member made in connection with the Rehabilitation or any policies and procedures relating thereto, exclusive of leasing activities; and

(xxi) perform and administer any and all other services and responsibilities of the Developer which are set forth in any other provisions of this Agreement or which are requested to be performed by the Managing Member and are within the general scope of the services described herein.

Section 2. **Accounts and Records.** The Developer, on behalf of the Company, shall keep such books of account and other records as may be required and approved by the Managing Member, including, but not limited to, records relating to the costs for which construction advances have been requested and/or received. The Developer shall keep vouchers, statements, receipted bills and invoices and all other records, in the form approved by the Managing Member, covering all collections, if any, disbursements and other data in connection with the Project prior to final completion of the Rehabilitation. All accounts and records relating to the Project, including all correspondence, shall be surrendered to the Company upon demand without charge therefor.

Section 3. **Development Fee.** In consideration of the performance by the Developer of the development and construction services described herein, the Company shall pay to the Developer a development fee and a development overhead fee (together, the "**Development Fee**") equal to \$3,542,829. The parties acknowledge that the Project is to be financed with tax-exempt bonds and is intended to meet the requirement of Section 42(h)(4)(B) of the Code that at least 50 percent of the costs of the Project (including land) be financed with the proceeds of such bonds. Accordingly, it may be necessary to reduce the Development Fee to offset cost overruns with respect to the Project or to the extent necessary to ensure that the Section 42(h)(4)(B) of the Code is satisfied.

- A. **Accrual of Development Fee.** The Company, Managing Member and the Developer acknowledge that: (i) a portion of the Development Fee payable to the Developer (as determined below) shall be deemed to have been earned as of the closing date in the amount of \$3,452,829, a further amount shall be deemed to have been earned when the Project has been completed (the "**Development Fee**"), and with all of the Development Fee deemed earned upon completion of the Project and (ii) in all cases, the full amount of the Development Fee shall be paid to the extent that the Company has available funds; provided that all unpaid amounts of the Development Fee must be paid on or before December 31, 2028 (the "**Maturity Date**") regardless of whether the Company has available funds. The Managing Member agrees to make a loan to the Company in an amount sufficient to pay the Development Fee in the event that the Company does not have available funds to pay the Development Fee on the Maturity Date.
- B. **Payment.** For development services to be performed under this Agreement, the Company shall pay the Developer the Development Fee as follows, subject to the terms of the First Priority Mortgage Loan Documents (as defined in the First Amended and Restated Operating Agreement of the Company):
- (a) 20% of the Developer Fee (initially, \$637,243 subject to adjustment as set forth above) from Capital Contributions and Loans to be paid on the due date of the Investor Member's First Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;
  - (b) 10% of the aggregate amount to be paid on the due date of the Investor Member's Second Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;



(c) 10% of the aggregate amount to be paid on the due date of the Investor Member's Third Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;

(d) 10% of the aggregate amount to be paid on the due date of the Investor Member's Fourth Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;

(e) 20% of the aggregate amount to be paid on the due date of the Investor Member's Fifth Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;

(f) 20% of the aggregate amount to be paid on the due date of the Investor Member's Sixth Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement;

(g) 5% of the aggregate amount to be paid on the due date of the Investor Member's Seventh Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement; and

(h) 5% of the aggregate amount to be paid on the due date of the Investor Member's Final Installment of its Capital Contribution as set forth on Exhibit A-1 of the Operating Agreement.

(i) The balance (the "Deferred Development Fee") from Cash Flow to the extent available for payment of such fee pursuant to Exhibit A-4 of the Operating Agreement or from capital proceeds under Section 8.02 of the Operating Agreement.

(j) The Developer shall not be compensated for, and no portion of the Development Fee shall apply to, services in connection with the development of nonresidential improvements, the organization or syndication of the Company, obtaining an allocation of Credits or securing Project financing other than construction financing; it being the understanding between the parties hereto that all such listed activities are the exclusive responsibility of the Company, the Managing Member and/or consultants or others engaged by the Company.

#### Section 4. *Termination of Duties and Responsibilities of Developer.*

Except as provided below, the Developer shall have no further duties or obligations hereunder after receipt of a final certificate of occupancy for the Building (if required) and completion of all punch list items. The Developer's duties, responsibilities and rights hereunder shall not be terminated by the Company except for "cause" as finally determined by a court of competent jurisdiction. For purposes, hereof, "cause" shall mean fraud, dishonesty, reckless disregard for customary practices and intentional misconduct after at least 30 days prior notice and opportunity to cure.

Section 5. *Miscellaneous.* This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned by any of the parties hereto without the written consent of the other party, except that the Developer may assign its rights but not its duties under this Agreement.

(c) The descriptive paragraph headings of this Agreement are inserted for convenience only and are not intended to and shall not be construed to limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provision hereof.

(d) This Agreement and the rights and obligations of the parties hereto shall be governed and construed and enforced in accordance with the laws of the Commonwealth of Virginia.

(e) This Agreement embodies the entire agreement and understanding between the parties relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter, and it is agreed that there are no terms, understandings, representations or warranties, express or implied, other than those set forth herein.

(f) This Agreement shall not be amended or modified in any respect without the prior written consent of each party hereto.

(g) No party hereto shall file or attempt to file this Agreement of record.

(h) This Agreement and the obligations of the Developer hereunder are solely for the benefit of the Company and its Members and no benefits to third parties are intended.

(i) In the event any provision hereof is deemed to be unenforceable or against public policy, then such provision shall be deemed omitted from this Agreement and to the extent possible such provision shall be replaced with an enforceable provision which corresponds with the spirit of the omitted provision, and no other provision of this Agreement shall be affected by such omission or unenforceability.

(j) The parties agree that the prevailing party in any action or dispute involving litigation concerning the subject matter hereof, shall be entitled to reasonable attorneys' fees and court costs.

(k) The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

Section 6. *Notice.* Any notice required to be given hereunder shall be in writing and mailed to all parties at the addresses set forth in the Company Agreement by certified mail, postage prepaid, or hand delivered or sent by a recognized overnight courier, in each case, with receipt of delivery. Each party shall have the right to change its address for the receipt of notices, upon the giving of proper notice to all other parties hereto. Whenever a period of time is to be computed from the date of receipt of an item of certified mail, such period shall be computed from the fifth day following the date of mailing if delivery of the certified mail item is refused by the party to whom it was directed.

Section 7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

Section 8. **Responsibilities of the Company.** In order for the Developer to perform duties described herein, the Company shall:

- (l) provide full information regarding its requirements for the Rehabilitation;
- (m) designate a representative who shall be fully acquainted with the scope of the work and has authority to render decisions promptly and furnish information expeditiously; and
- (n) if the Company becomes aware of any fault or defect in the Project or nonconformance with any contract or other documents, it shall give prompt written notice thereof to the Developer.

Section 9. **Independent Contractor.** The parties hereto do not intend to create a Company or any similar association for any purpose. The Developer shall be an independent contractor for all purposes.

Section 10. **Assignment of Existing Contracts.** The Developer hereby conveys, assigns and delivers to the Company all of its right, title and interest in and to all contracts related to the Rehabilitation and the development, design, construction, leasing, management or operation of the Project entered into by the Developer for the benefit of the Company.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


IN WITNESS WHEREOF, the parties have executed this Development Agreement as of the date and year first above written.

**COMPANY:**

**BWF GLEN ARBOR, LLC,**  
a Virginia limited liability company

By: **BWF GLEN ARBOR MM, LLC**  
a Virginia limited liability company, its managing member

By: **Bonaventure Wealth Fund, LLC,** a Virginia liability company, its sole member

By:   
Name: **DWIGHT D. DUNTAN III**  
Title: **MANAGER**

**DEVELOPER:**

**BONAVENTURE DEVELOPMENT, LLC,**  
a Virginia limited liability company

By:   
Name: **DWIGHT D. DUNTAN III**  
Title: **MANAGER**

## Exhibit D

### GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this "Agreement"), dated and effective as of the 1<sup>st</sup> day of May, 2017, is made by and among BWF GLEN ARBOR, LLC, a limited liability company formed under the laws of the Commonwealth of Virginia (the "Company"), and each of BONAVENTURE WEALTH FUND, LLC (together, hereinafter referred to as the "Guarantor"), and BWF GLEN ARBOR MM, LLC, which is the managing member of the Company (the "Managing Member").

#### Recitals

The Company was formed for the purpose of acquiring, owning, developing, constructing, leasing, managing, operating, and, if appropriate or desirable, selling or otherwise disposing of a two hundred nine (2093) unit residential project in ten (10) buildings located at 1901 Stevens Rd, Woodbridge, VA 22191 (the "Project"). The Company is operating by a First Amended and Restated Operating Agreement in the form to which this Agreement is attached as an Exhibit (the "Operating Agreement").

The Company and the Managing Member desire that the Guarantor advance funds to the Managing Member to the extent needed by the Managing Member to (i) make Operating Deficit Contributions and Operating Deficit Loans pursuant to Section 5.14 of the Operating Agreement, (ii) make Credit Adjuster Payments pursuant to Section 3.03 of the Operating Agreement, (iii) purchase the Interest of the Investor Member pursuant to Section 5.16 of the Operating Agreement and (iv) purchase the Interest of the Investor Member pursuant to Section 14.03 of the Operating Agreement, and the Guarantor is agreeable to making such advances as provided in this document.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Operating Deficit Guaranty.** During the period prior to the Release Date (as defined in the Operating Agreement), in the event that, at any time or from time to time during the term of this Agreement (i) an Operating Deficit exists (as defined in Article II of the Operating Agreement) and such Operating Deficit cannot be satisfied from Company funds including the Company's Operating Reserve (to the extent permitted in the Operating Agreement) and (ii) the Managing Member does not make an Operating Deficit Contribution or Operating Deficit Loans to the Company by fifteen (15) days after the date by which it is required to so do pursuant to Section 5.14 of the Operating Agreement, then the Managing Member, or if the Managing Member fails to act, the Investor Member, shall provide Notice thereof to the Guarantor, and the Guarantor, by the date that is fifteen (15) days after such Notice from the Managing Member or the Investor Member, shall advance funds to the Managing Member in the amount necessary for the Managing Member to make its required Operating Deficit Contribution or Operating Deficit Loans.

2. **Credit Adjuster Guaranty.** In the event that, at any time or from time to time during the term of this Agreement, the Managing Member is required to make a Credit Adjuster

Payment and the Managing Member does not make the Credit Adjuster Payment by fifteen (15) days after the date by which it is required to so do pursuant to Section 3.03 of the Operating Agreement, then the Managing Member, or, if the Managing Member fails to act, the Investor Member, shall provide Notice thereof to the Guarantor, and the Guarantor, by the date that is forty-five (45) days after such Notice from the Managing Member or the Investor Member, shall advance funds to the Managing Member in the amount necessary for the Managing Member to make its required Credit Adjuster Payment.

3. **Guaranty of Obligation to Purchase Interest of Investor Member.** In the event that, at any time or from time to time during the term of this Agreement, the Managing Member is obligated pursuant to Section 5.16 or 14.3 of the Operating Agreement to purchase the investor Member's Interest and the Managing Member does not purchase such Interest by fifteen (15) days after the date by which it is required to so do pursuant to Section 5.16 of the Operating Agreement, then the Managing Member, or, if the Managing Member fails to act, the Investor Member, shall provide Notice thereof to the Guarantor, and the Guarantor, by the date that is fifteen (15) days after such Notice from the Managing Member or the Investor Member, shall advance funds to the Managing Member in the amount necessary for the Managing Member to purchase the Investor Member's Interest.

4. **Term.** This Agreement shall commence as of the date hereof and shall terminate when the and Guarantor have satisfied in full their obligations (i) to make Operating Deficit Loans pursuant to Section 5.14 of the Operating Agreement, (ii) to make Credit Adjuster Payments pursuant to Section 3.3 of the Operating Agreement, (iii) to repurchase the Investor Member's Interest pursuant to Section 5.16 of the Operating Agreement and (iv) to purchase the Investor Member's Interest pursuant to Section 14.3 of the Operating Agreement. It is intended that upon termination of each obligation of the Managing Member pursuant to Section 5.14, 3.3, 5.16 and 14.3 of the Agreement guaranteed hereunder, such corresponding guaranty of such obligation by the Guarantor shall be terminated notwithstanding the continuing term of this Agreement.

5. **Intended Beneficiary.** The parties intend that the Investor Member of the Company and its successors, assigns or transferees be a third-party beneficiary of this Agreement and that the Investor Member in such capacity may enforce the Guarantor's obligations hereunder. No person other than the Investor Member and the parties to this Agreement may directly or indirectly rely upon or enforce the provisions of this Agreement, whether as a third-party beneficiary or otherwise.

6. **Operating Agreement.** Except as expressly provided herein, this Agreement shall be subject to the applicable terms and conditions of the Operating Agreement.

7. **Burden and Benefit.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns. No party may assign this Agreement without the consent of the other party.

8. **Severability of Provisions.** Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic

purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

9. **No Continuing Waiver.** None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

10. **Defined Terms.** Except as expressly provided herein, terms used in this Agreement with initial capital letters shall have the meanings set forth in the Operating Agreement.

11. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to principles of conflicts of laws.

12. **Headings.** All headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any provision of this Agreement.

13. **Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

14. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

15. **Guaranty of Payment.** Notwithstanding any other provision of this Agreement:

(a) this Agreement constitutes a guaranty of payment, not solely a guaranty of collection; and

(b) the guaranty in this Agreement is primary and not conditional.

16. **Representations.** Each Guarantor hereby represents for itself that to the best of its knowledge:

(a) there is no pending action, suit, proceeding or investigation involving the Guarantor, or which could materially, adversely affect the Guarantor's assets, operation or conditions, financial or otherwise; and

(b) the execution, delivery and performance by the Guarantor of this Agreement, the Project Documents and the Loan Documents, as applicable, and the carrying out of the transactions contemplated thereby, are not in violation of or in conflict with nor do they constitute a default under (a) any provision of any applicable law, statute, ordinance or rule or regulation; (b) any agreement indenture or instrument to which the Guarantor is a party; (c) any license or permit or (d) any judgment, decree or order of a court of competent jurisdiction, all as may be applicable to the Guarantor.

17. **Joint and Several.** The obligations under the Guarantor under this Guaranty Agreement shall be joint and several obligations of the Company, the Managing Member, and each Guarantor.

18. **Failure to Provide Notice to Investor Member.** Failure by the Managing Member to provide notice to the Investor Member under this Guaranty shall not constitute a default under this Guaranty or any other agreement between the Investor Member and the Managing Member.

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[Signatures begin on the following page.]




IN WITNESS WHEREOF, the parties have executed this Guaranty Agreement as of the date first above written.

COMPANY:

BWF GLEN ARBOR, LLC,  
a Virginia limited liability company

By: BWF GLEN ARBOR MM, LLC, a Virginia  
limited liability company, its managing member


By: Bonaventure Wealth Fund, LLC, a Virginia  
liability company, its sole member

By:   
Name: Dwight D. Dunton, III  
Title: Managing Member

MANAGING MEMBER:

BWF GLEN ARBOR MM, LLC  
a Virginia limited liability company

By: Bonaventure Wealth Fund, LLC, a Virginia  
liability company, its sole member

By:   
Name: Dwight D. Dunton, III  
Title: Managing Member

GUARANTOR:

BONAVENTURE WEALTH FUND, LLC,  
a Virginia liability company, its sole member

By:   
Name: Dwight D. Dunton, III  
Title: Managing Member

## Exhibit E

### COMPANY ADMINISTRATION AGREEMENT

THIS COMPANY ADMINISTRATION AGREEMENT (this "*Agreement*"), dated and effective as of the 1<sup>st</sup> day of May, 2017, is made by and between BWF GLEN ARBOR, LLC, a limited liability company formed under the laws of the Commonwealth of Virginia (the "*Company*") and BWF GLEN ARBOR MM, LLC, a Virginia limited liability company (the "*Administrator*").

#### Recitals

The Company was formed for the purpose of acquiring, owning, developing, constructing and/or rehabilitating, leasing, managing, operating, and, if appropriate or desirable, selling or otherwise disposing of a two hundred nine (209) unit residential project in ten (10) buildings located at 1901 Stevens Rd, Woodbridge, VA 22191 (the "*Project*"). The Company is operating by a First Amended and Restated Operating Agreement in the form to which this Agreement is attached as an Exhibit (the "*Operating Agreement*").

The Company has agreed to make certain payments to Administrator as an inducement for the efficient administration of the Project.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Services.** Subject to the applicable provisions of the Operating Agreement, the Administrator shall:

(a) Provide any and all supervisory services designed to cause the Project to operate efficiently, including reviewing and evaluating programs, policies and procedures instituted by the Management Agent for advertising and tenant recruitment, screening and selection;

(b) Investigate and make recommendations with respect to the selection and conduct of relations with consultants and technical advisors (including, without limitation, accountants, depositories, custodians, agents for collection, insurers, insurance agents and banks) if necessary at any given time; and

(c) Formulate programs for owner, tenant, public and government relations.

2. **Company Administration Fee.** Subject to the applicable terms and conditions of the Operating Agreement and the Loans and Project Documents, beginning on the PIS Date, the Company shall pay to the Administrator, over the term of this Agreement, an annual Company Administration Fee in an amount equal to ten percent (10%) of the Company's Effective Gross Income, such amount prorated for any partial year. The Company Administration Fee shall be payable from Cash Flow available for payment of such fee pursuant to Exhibit A-4 of the Company Agreement. If not paid, the

Company Administration Fee shall accumulate from year to year; provided, however, that no amount of such Company Administration Fee shall be deducted as an expense by the Company until such amount is actually paid.

3. **Operating Agreement.** Except as expressly provided herein, this Agreement shall be subject to the applicable terms and conditions of the Operating Agreement.

4. **Burden and Benefit.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, personal representatives, successors and assigns. No party may assign this Agreement without the consent of the other party.

5. **Severability of Provisions.** Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

6. **No Continuing Waiver.** None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

7. **Defined Terms.** Except as expressly provided herein, terms used in this Agreement with initial capital letters shall have the meanings set forth in the Operating Agreement.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to principles of conflicts of laws.

9. **Headings.** All headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any provision of this Agreement.

10. **Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

11. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Company Administration Agreement as of the date first written above.

BWF GLEN ARBOR, LLC

By: BWF GLEN ARBOR MM, LLC  
a Virginia limited liability company, its  
managing member

By: Bonaventure Wealth Fund, LLC,  
a Virginia liability company, its  
sole member

By: Dwight D. Dunton III  
Name: Dwight D. Dunton, III  
Title: Managing Member

ADMINISTRATOR

BWF GLEN ARBOR MM, LLC  
a Virginia limited liability company

By: Bonaventure Wealth Fund, LLC, a  
Virginia liability company, its sole  
member

By: Dwight D. Dunton III  
Name: Dwight D. Dunton, III  
Title: Managing Member

## Exhibit F

### UNCONDITIONAL CONSTRUCTION COMPLETION GUARANTY AGREEMENT

FOR VALUE RECEIVED, and to induce Fulton Bank, N.A., its successors, assigns and transferees, (the "*Investor Member*") to become an investor member of BWF GLEN ARBOR, LLC, a limited liability company formed under the laws of the Commonwealth of Virginia (the "*Company*"), by entering into a First Amended and Restated Operating Agreement (the "*Operating Agreement*") and to induce the Company to obtain financing for the rehabilitation of a two hundred nine (209) unit residential project in ten (10) buildings located at 1901 Stevens Rd, Woodbridge, VA 22191 (the "*Project*"), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BWF Glen Arbor MM, LLC ("Managing Member") and Bonaventure Wealth Fund, LLC, a Virginia limited liability company (hereinafter referred to as the "*Guarantor*"), as of the 1<sup>st</sup> day of May, 2017, hereby undertake, guarantee, and agree as follows:

1. **Completion of Construction.** Each Guarantor hereby absolutely and unconditionally guarantees the due and punctual rehabilitation (the "*Work*") of the Project substantially in accordance with the terms and requirements of the Operating Agreement (including the payment of Development Advances by the Managing Member under Section 5.13 of the Operating Agreement and the full funding of the reserves set forth in Exhibit A-6 of the Operating Agreement and the Insurance and Tax Escrow to the extent such reserve and escrow are required to be funded as of the Completion Date), the Loan Documents and the Project Documents, free and clear of any liens or claims of liens (except for the liens specifically permitted by the Operating Agreement, the Loan Documents and the Project Documents), in the manner and within the time necessary to comply with all of the terms, covenants and conditions of the Operating Agreement, the Loan Documents and the Project Documents, including all future amendments thereto. Should the cost of completion of the Work exceed the amounts available therefor in loan proceeds and Company funds, or should any liens be filed against the Company Property or the Project (except for liens specifically permitted by the Operating Agreement, the Loan Documents and the Project Documents) prior to completion of or in connection with the Work, Guarantor hereby absolutely and unconditionally guarantees the prompt, absolute, and unconditional payment of such sums necessary to complete the Work and discharge such liens. All sums due and payable hereunder by Guarantor shall be payable on demand of the Company.

2. **Continuing Guaranty.** It is expressly understood and agreed that this is a continuing guaranty and that the obligations of Guarantor hereunder are and shall be absolute under any and all circumstances, without regard to the validity, regularity, or enforceability of the Operating Agreement, the Loan Documents, the Project Documents, or any other instruments executed in connection therewith.

3. **Certain Waivers.** To the extent permitted by law, Guarantor hereby waives notice of the acceptance hereof, presentment, demand for payment, protest, notice of

protest, and any and all notices of nonpayment, non-performance, and non-observance, and other proof, and notice of demand, and Guarantor hereby waives all suretyship defenses and defenses in the nature thereof.

4. **Defenses Not Valid.** Guarantor further agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in no way be terminated, affected, or impaired (a) by reason of the assertion by the Company or any Member thereof of any rights or remedies under or with respect to the Operating Agreement, or any other instruments executed in connection therewith, against any Person obligated thereunder, (b) by reason of any failure to exercise, or delay in exercising, any such right or remedy or any right or remedy hereunder or in respect to this Guaranty, or (c) to the extent allowed by law, by reason of the adjudication in bankruptcy of this Guaranty or any guarantor hereunder, any Person obligated under the Operating Agreement, or the filing of a petition for any relief under any federal, state, or local bankruptcy law by any such Person.

5. **Effect of Certain Assignments, Etc.** Guarantor further covenants that this Guaranty shall remain and continue in full force and effect as to any assignment, modification, extension, or renewal of the Loan Documents, the Project Documents or the release or exchange of any property covered by the Loan Documents or other collateral for any of the Loans, and notwithstanding any amendment of the Operating Agreement or transfer of the Interest of any Member thereunder, and that indulgences or forbearance may be granted under any or all of such documents, all of which may be made, done, or suffered without notice to or further consent of the Guarantor.

6. **Enforcement.** Guarantor hereby agrees that this is a guaranty of payment, not collection, and that this Guaranty may be enforced by the Company or any Member thereof against Guarantor without first resorting to or exhausting any other right or remedy; provided, however, that nothing herein contained shall prevent the Company or any Member from suing to enforce the provisions of the Operating Agreement or from exercising any rights thereunder.

7. **Default.** If Guarantor shall fail or refuse to perform or continue performance of all of Guarantor's obligations under this Guaranty, then the Company and/or the Members thereof shall, at their option, have the right to take all necessary action to complete the Work in accordance with the terms of the Operating Agreement, the Loan Documents, and the Project Documents to discharge any liens filed against the Project or the land underlying the Project and to take any other actions necessary or advisable to cure the Guarantor's default hereunder, either before or after the exercise of any other remedy. The amounts of any and all expenditures and advances so made by the Company or any Member shall be due and payable by Guarantor immediately upon the incurring or advancement thereof and, if not then paid, shall bear interest at two percent (2%) above the Prime Rate.

8. **Term.** Except as provided herein, this Guaranty shall terminate three (3) months after the last to occur of the following:

(a) A final certificate of occupancy is issued for the Project following the completion of construction of the Project in accordance with the Loan Documents and Project Documents, if necessary;

(b) Final payment is made under the construction contracts, and the contractor and all subcontractors have been paid in full and have no further claims under the construction contracts;

(c) The statutory period within which the contractor and any subcontractors under the construction contracts may file liens against the Company Property or the Project has expired or the Company has received final lien waivers from all contractors and subcontractors; and

(d) The full funding of the reserves set forth in Exhibit A-6 of the Operating Agreement and the Insurance and Tax Escrow to the extent such reserve and escrow are required to be funded as of the Completion Date.

9. **Notices.** All notices to the parties hereto shall be given in the manner and (where applicable) to the addresses specified on Exhibit A-5 to the Operating Agreement, as the same may be amended from time to time by Notice to the parties hereto. Notices to the Company shall be sent in care of the Managing Member of the Company with a copy to the Investor Member. Notices to Guarantor shall be sent to the Managing Member at 2700 S. Quincy Street, Suite 500, Arlington, Virginia 22206, with a copy to J. Conrad Garcia, Esq., c/o Williams Mullen, 200 South 10<sup>th</sup> Street, Richmond, Virginia 23219.

12. **Intended Beneficiary.** The parties intend that the Investor Member of the Company be a third party beneficiary of this Agreement and that the Investor Member, in such capacity, may enforce the Guarantor's obligations hereunder. No person other than the Investor Member and the Company may directly or indirectly rely upon or enforce the provisions of the Agreement, whether as a third party beneficiary or otherwise.

10. **Company Agreement.** Except as expressly provided herein, this Agreement shall be subject to the applicable terms and conditions of the Operating Agreement.

11. **Burden and Benefit.** This Guaranty and each covenant and agreement contained herein shall be binding upon Guarantor, its successors and assigns, and shall inure to the benefit of the Company, the Members thereof, and their respective successors and assigns.

12. **Severability of Provisions.** Each provision of this Guaranty shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of this Guaranty is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Guaranty that are valid.

13. **No Continuing Waiver.** None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Guaranty shall not operate or be construed to be a waiver of any subsequent breach.

14. **Defined Terms.** Except as expressly provided herein, terms used in this Agreement with initial capital letters shall have the meanings set forth in the Operating Agreement.

15. **Governing Law.** This Guaranty shall be governed, construed, and interpreted as to validity and enforcement and in all other respects in accordance with the laws of the Commonwealth of Virginia and cannot be modified, amended, or terminated orally.

16. **Binding Agreement.** This Agreement shall be binding on the parties hereto, and their heirs, executors, personal representatives, successors and assigns.

17. **Headings.** All headings in this Guaranty are for convenience of reference only and are not intended to qualify the meaning of any provision of this Guaranty.

18. **Terminology.** All personal pronouns used in this Guaranty, whether used in the masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

19. **Counterparts.** This Guaranty may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

20. **Guaranty of Payment.** Notwithstanding any other provision of this Agreement:

(i) this Agreement constitutes a guaranty of payment, not solely a guaranty of collection; and

(ii) the guaranty in this Agreement is primary and not conditional.

21. **Representations.** Each Guarantor hereby represents for itself that:

(iii) there is no pending action, suit, proceeding or investigation involving the Guarantor, or which could materially, adversely affect the Guarantor's assets, operation or conditions, financial or otherwise; and

(iv) the execution, delivery and performance by the Guarantor of this Agreement, the Project Documents and the Loan Documents, as applicable, and the carrying out of the transactions contemplated thereby, are not in violation of or in conflict with nor do they constitute a default



under (a) any provision of any applicable law, statute, ordinance or rule or regulation; (b) any agreement indenture or instrument to which the Guarantor is a party; (c) any license or permit or (d) any judgment, decree or order of a court of competent jurisdiction, all as may be applicable to the Guarantor.

22. **Joint and Several.** The obligations under the terms of this Agreement are joint and several obligations of the Company, the Managing Member and each Guarantor.

[Signatures begin on the following page.]

IN WITNESS WHEREOF, Guarantor has duly executed this Unconditional Construction Completion Guaranty Agreement as of the date first above written.

BWF GLEN ARBOR MM, LLC  
a Virginia limited liability company

By: Bonaventure Wealth Fund, LLC, a  
Virginia liability company, its sole  
member

By:   
Name: Dwight D. Dunton, III  
Title: Managing Member

BONAVENTURE WEALTH FUND, LLC,  
a Virginia liability company

By:   
Name: Dwight D. Dunton, III  
Title: Managing Member

**Exhibit G**

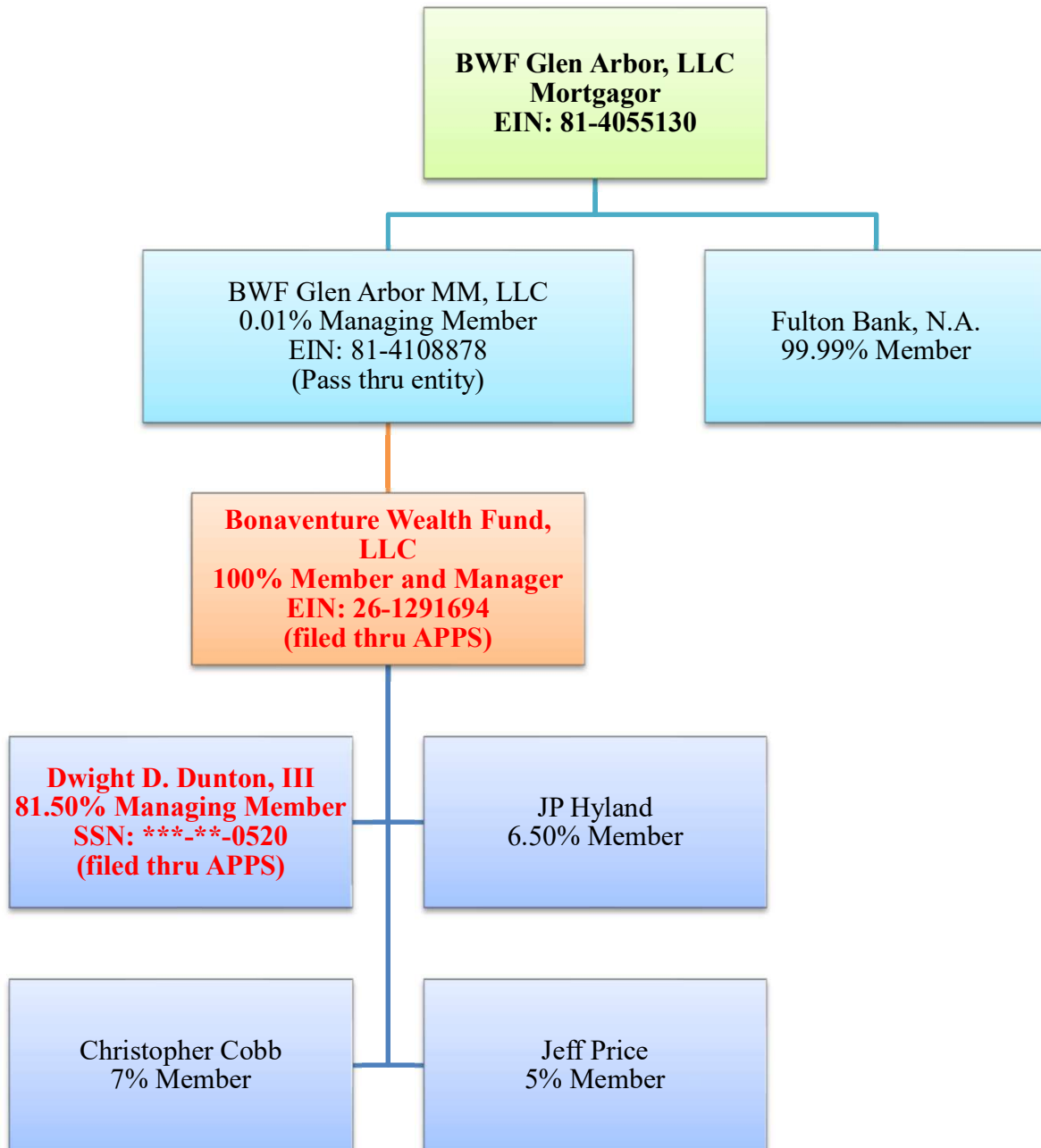
**PROJECTIONS**

**BWF Glen Arbor, LLC**

**Projected Schedules  
and Independent Accountant's Report**

**Projected Schedules for the Period of  
May 1, 2017 - December 31, 2032**

**Glen Arbor Apartments  
Section 223(f) Acquisition  
FHA# 051-11365**



**OPERATING AGREEMENT  
OF  
BWF Glen Arbor MM, LLC**

THIS OPERATING AGREEMENT (“Agreement”) of BWF Glen Arbor MM, LLC, a Virginia limited liability company (the “Company”), is effective as of January 25, 2017, between the Company and Bonaventure Wealth Fund, LLC as the sole member of the Company (the “Member”).

**RECITALS**

A. The Member has caused the Company to be organized as a Virginia limited liability company in accordance with the Virginia Limited Liability Company Act, § 13.1-1000, et seq., of the Code of Virginia of 1950, as amended and in force from time to time (the “Act”).

B. The undersigned desires to execute this Agreement in order to set forth the terms and conditions under which the management, business, and financial affairs of the Company will be conducted.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby covenants and agrees as follows:

**ARTICLE I  
PURPOSE AND POWERS OF COMPANY**

1.01 Purpose. The Company may engage in any lawful business except as otherwise provided by the laws of the Commonwealth of Virginia.

1.02 Powers. The Company shall have all powers of a limited liability company organized under the Act and not prescribed by the Act, its Articles of Organization, or this Agreement.

**ARTICLE II  
NAME AND ADDRESS OF INITIAL MEMBER**

2.01 Name and Address. The name, address, and initial membership interest of the initial Member is as follows:

<u>Name</u>	<u>Membership Interest</u>
Bonaventure Wealth Fund, LLC	100%
2700 South Quincy Street, Suite 500	
Arlington, VA 22206	

**ARTICLE III**  
**MANAGEMENT BY SOLE MEMBER**

3.01 In General. The powers of the Company shall be exercised by, or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Member. Subject to the other provisions of this Agreement, the Member shall be entitled to make all decisions and take all actions for the Company, including the execution of all documents, agreements, certificates, and other writings in the name of, and on behalf of, the Company.

3.02 Indemnification. The Company shall indemnify, defend, and hold harmless the Member (including its members, officers, directors, agents, employees, and affiliates) to the fullest extent permitted under the Act against any and all liability, damage, loss, cost, or expense (including, without limitation, attorneys' fees) incurred by the Member arising out of any transaction or course of conduct relating to the business and affairs of the Company.

3.03 Elimination of Liability. In any proceeding brought in the right of the Company or by or on behalf of the Members of the Company, the damages assessed against a Member arising out of a single transaction, occurrence, or course of conduct shall not exceed one dollar, unless such member engaged in willful misconduct or a knowing violation of the criminal law.

3.04 Advances. Expenses (including legal fees and expenses) of the Member (including its members, officers, directors, agents, employees, and affiliates) incurred by the Member arising out of any transaction or course of conduct relating to the business and affairs of the Company may be paid by the Company in advance of the final disposition of any proceeding relating thereto.

**ARTICLE IV**  
**CONTRIBUTIONS TO THE COMPANY AND DISTRIBUTIONS**

4.01 Member Capital Contributions. The Member, upon execution of this Agreement, shall have contributed as the Member's initial capital contribution the cash and/or other property set forth on Exhibit A attached hereto.

4.02 Distributions and Allocations. All distributions of cash or other property (except upon the Company's dissolution which shall be governed by the applicable provisions of the Act) and all allocations of income, profits, and loss shall be made 100% to the Member in accordance with his membership interest in the Company.

**ARTICLE V**  
**APPLICABILITY OF THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY ACT**

5.01 Application of the Act. Notwithstanding any other provision of this Agreement, this Company and the Member shall be subject to regulation and supervision by the Authority in accordance with the Virginia Housing Development Authority Act, the Rules and Regulations of the Authority, and the Regulatory Agreement assumed or to be assumed by this limited liability

company and shall be further subject to the exercise by the Authority of the rights and powers conferred on the Authority thereby. Notwithstanding any other provision of this Agreement, the Authority may rely upon the continuing effect of this provision which shall not be amended, altered, waived, supplemented or otherwise changed without the prior written consent of the Authority.

**ARTICLE VI**  
**MISCELLANEOUS PROVISIONS**

6.01 Governing Law. This Agreement shall be construed, enforced, and interpreted in accordance with the laws of the Commonwealth of Virginia without regard to conflicts of law provisions and principles thereof.

6.02 Amendments. No amendment or modification of this Agreement shall be effective unless approved in writing by the Member.

6.03 Construction. Whenever the singular is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

6.04 Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

6.05 Heirs, Successors, and Assigns. Each and all of the covenants, terms, provisions, and agreements herein contained shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors, and assigns.

6.06 Creditors. None of the provisions of this Agreement shall be for the benefit of, or enforceable by any creditor of, the Company or the Member.

The undersigned hereby agrees, acknowledges, and certifies that the foregoing constitutes the sole and entire Operating Agreement of the Company, effective as of the date first written above.

**SOLE MEMBER:**

Bonaventure Wealth Fund, LLC

By: *Dwight Dunton*  
Dwight D. Dunton, III, its Managing Member



**EXHIBIT A**

**Initial Capital Contribution of the Member**

<b>Members</b>	<b>Cash or Property Contributed</b>	<b>Amount</b>
BWF Glen Arbor, LLC	\$100	\$ 100
<b>TOTAL</b>		<b>\$ 100</b>

#2283754 v1 030492.00023

## Low-Income Housing Credit Allocation and Certification

▶ Go to [www.irs.gov/Form8609](http://www.irs.gov/Form8609) for instructions and the latest information.

### Part I Allocation of Credit

Check if:  Addition to Qualified Basis  Amended Form

<b>A</b> Address of building (do not use P.O. box) (see instructions) <b>14310 Jeffries Road</b> <b>Woodbridge, VA 22191</b>	<b>B</b> Name and address of housing credit agency <b>Virginia Housing Development Authority</b> <b>601 S. Belvidere Street</b> <b>Richmond, VA 23220</b>
<b>C</b> Name, address, and TIN of building owner receiving allocation <b>BWF Glen Arbor, LLC</b> <b>2700 South Quincy Street Suite 500</b> <b>Arlington, VA 22206</b>	<b>D</b> Employer identification number of agency <p style="text-align: right;"><b>54-0921892</b></p> <b>E</b> Building identification number (BIN) <p style="text-align: right;"><b>VA1740001</b></p>
<b>TIN</b> ▶ <b>81-4055130</b>	

<b>1a</b> Date of allocation ▶	<b>b</b> Maximum housing credit dollar amount allowable	<b>1b</b>	<b>\$33,420</b>
<b>2</b> Maximum applicable credit percentage allowable (see instructions)		<b>2</b>	<b>3.24 %</b>
<b>3a</b> Maximum qualified basis		<b>3a</b>	<b>\$1,031,481</b>
<b>b</b> Check here <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions)		<b>3b</b>	<b>1 %</b>
<b>4</b> Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)		<b>4</b>	<b>54.31 %</b>
<b>5</b> Date building placed in service			<b>▶ 3/27/2018</b>
<b>6</b> Check the boxes that describe the allocation for the building (check those that apply):			
<b>a</b> <input type="checkbox"/> Newly constructed and federally subsidized <b>b</b> <input type="checkbox"/> Newly constructed and <b>not</b> federally subsidized <b>c</b> <input checked="" type="checkbox"/> Existing building			
<b>d</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized <b>e</b> <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures <b>not</b> federally subsidized			
<b>f</b> <input type="checkbox"/> Allocation subject to nonprofit set-aside under sec. 42(h)(5)			

### Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

 Signature of authorized official	<b>John D. Bondurant, Authorized Officer</b> Name (please type or print)	<b>9.10.18</b> Date
--------------------------------------	---	------------------------

### Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

<b>7</b> Eligible basis of building (see instructions)	<b>7</b>	<b>1,031,481</b>
<b>8a</b> Original qualified basis of the building at close of first year of credit period	<b>8a</b>	<b>1,031,481</b>
<b>b</b> Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9a</b> If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>b</b> For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>10</b> Check the appropriate box for each election.		
<b>Caution:</b> Once made, the following elections are irrevocable.		
<b>a</b> Elect to begin credit period the first year after the building is placed in service (section 42(f)(1))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>b</b> Elect <b>not</b> to treat large partnership as taxpayer (section 42(j)(5))	<input type="checkbox"/> Yes	
<b>c</b> Elect minimum set-aside requirement (section 42(g)) (see instructions):		
<input type="checkbox"/> 20-50 <input checked="" type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)		
<b>d</b> Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	<input type="checkbox"/> 15-40	

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

 Signature	<b>81-4055130</b> Taxpayer identification number	<b>9/17/18</b> Date
<b>Dwight D. Dunton III</b> Name (please type or print)	<b>12/31/2018</b> First year of the credit period	

Q

Documentation of Rental  
Assistance

This deal does not require  
information behind this tab.

R

Documentation of  
Operating Budget

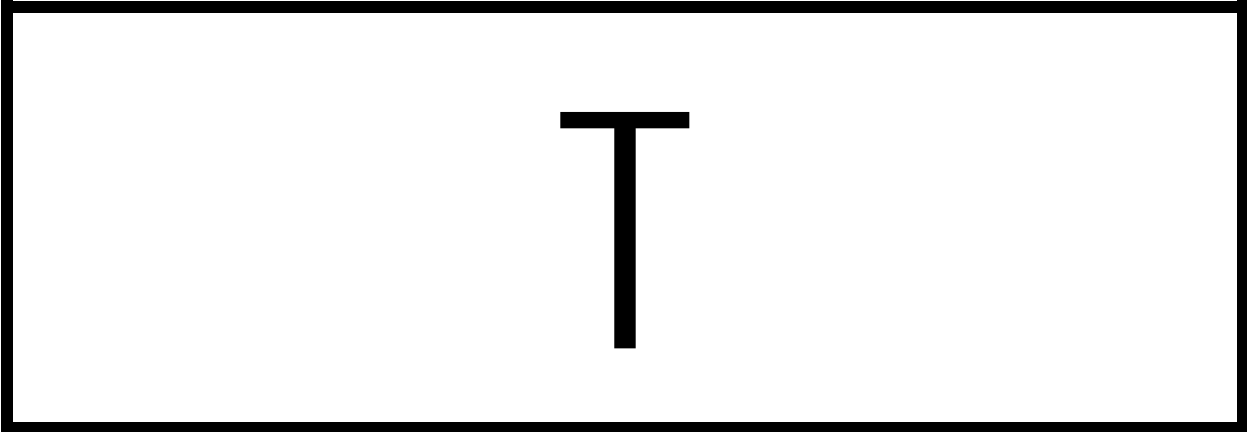
This deal does not require  
information behind this tab.

S

Supportive Housing  
Certification

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information behind this tab.





T

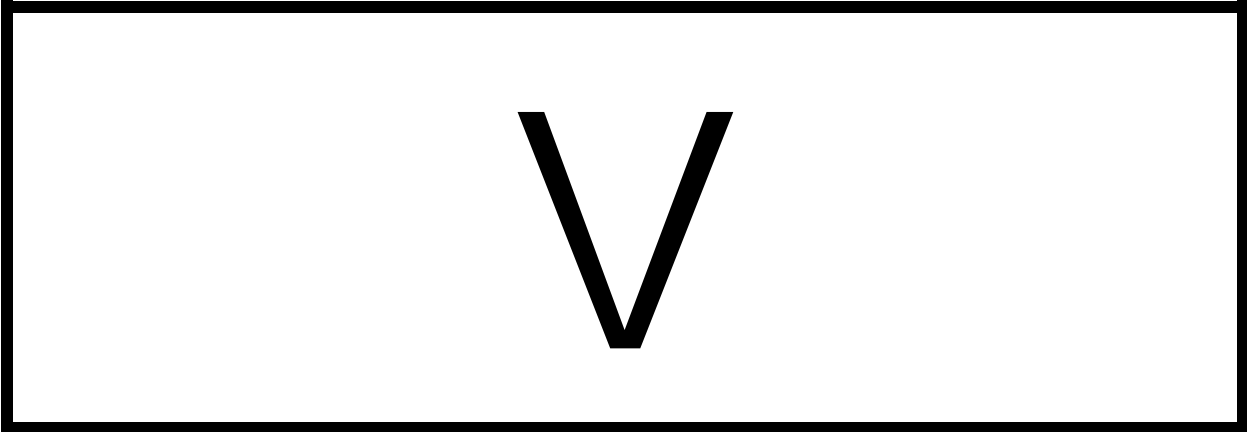
Funding Documentation

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information behind this tab.

U

Documentation to  
Request Exception to  
Restriction-Pools with  
Little/No Increase in Rent  
Burdened Population

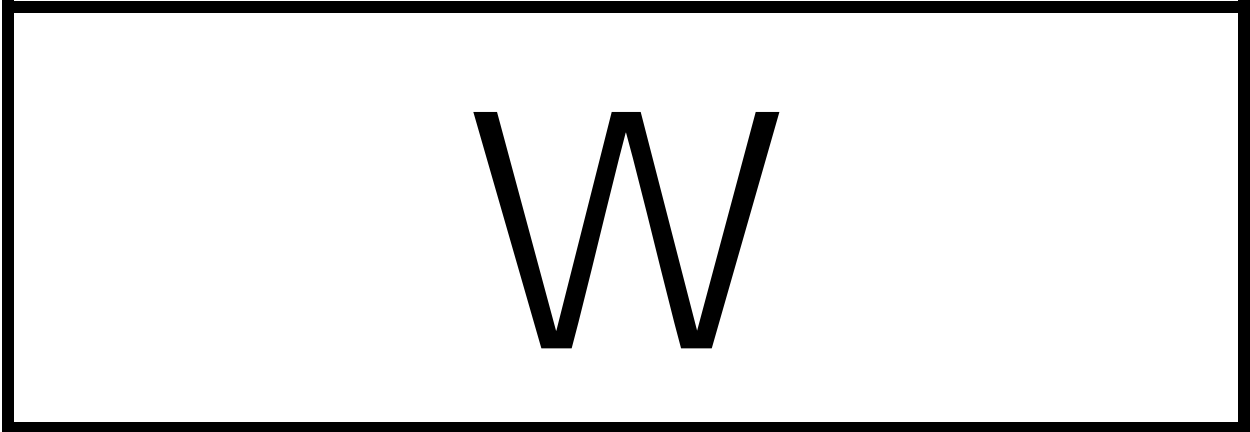
This deal does not require  
information behind this tab.



V

Nonprofit or LHA Purchase  
Option or Right of First  
Refusal

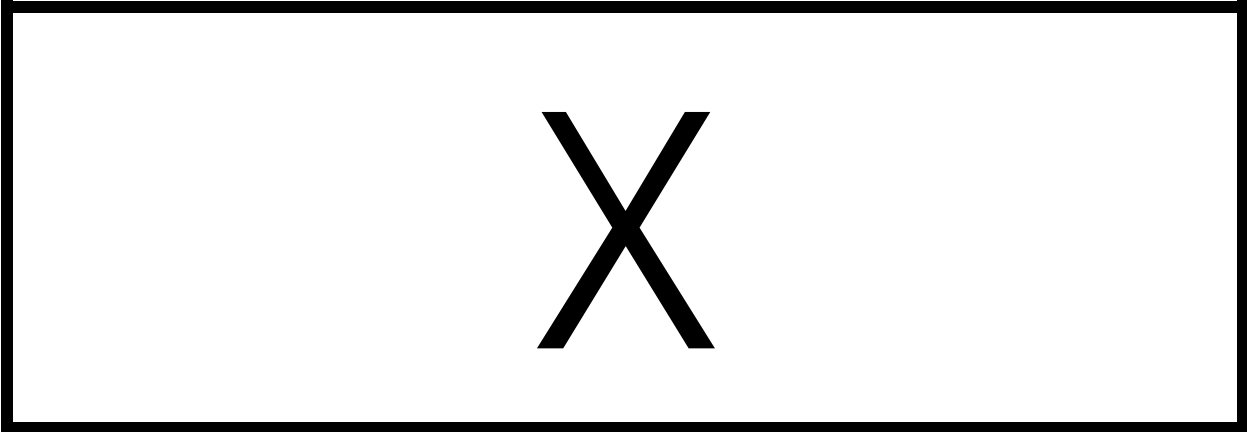
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information behind this tab.



(Reserved)

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information behind this tab.





X

# Marketing Plan

For units meeting accessibility requirements of HUD section

504

# ***Palmers Creek, LLC***

## ***Marketing Plan for Units Which Conform to Section 504 of the Rehabilitation Act***

This Marketing Plan for Units Which Conform to Section 504 of the Rehabilitation Act (the “Marketing Plan”) has been designed to convey to current and potential residents with disabilities that Palmers Creek Apartments will be a new rental housing experience, with a commitment to excellent management and resident service, as well as an expectation of resident responsibility. Therefore, the majority of this plan will address ways in which property management will endeavor to secure qualified tenants, ensure quality tenancy, and effective management and maintenance of the property.

The Management Agent will be responsible for the management of Palmers Creek Apartments. Bonaventure Property Management Services, LLC, the Management Agent, will be responsible for all the traditional management functions, including rent collection, maintenance, record keeping, reports, development of budgets, and monitoring resident income qualifications. Additionally, Bonaventure Property Management Services, LLC will be responsible for the development and management of community and resident services program.

### **I. Affirmative Marketing**

Bonaventure Property Management Services, LLC is pledged to the letter and the spirit of the U.S. policy of the achievement of equal housing opportunity throughout the Nation and will actively promote fair housing in the development and marketing of this project. Bonaventure Property Management Services, LLC, its Officers, Directors and employees will not discriminate on the basis of race, creed, color, sex, religion, familial status, elderliness, disability or sexual orientation in its programs or housing. They will also comply with all provisions of the Fair Housing Act (42 U.S.C. 3600, et. Seq.).

Any employee who has discriminated in the acceptance of a resident will be subject to immediate dismissal. All persons who contact the office will be treated impartially and equally with the only qualification necessary for application acceptance being income and credit, and conformity with the requirements of the Section 8 Program and Tax Credit programs. All interested parties will be provided a copy of the apartment brochure/flyer. Any resident who has questions not answered by the housing staff will be referred to the Associate Director or the Executive Director of Bonaventure Property Management Services, LLC.

### **II. Marketing and Outreach**

**Locating people with disabilities to occupy the units which conform to the requirements of Section 504 of the Rehabilitation Act will be accomplished as follows:**

#### **1. Networking**

**Bonaventure Property Management Services, LLC will contact local centers for independent living, disability services boards and other service organizations via phone and printed communication. The contacts will include the following organizations:**

- **Area Center for Independent Living 757-414-0100**
- **Virginia Board for People with Disabilities 540-373-2559**
- **Virginia Department for Aging and Rehabilitative Services 540-899-4161**

### **Centers for Independent Living**

- **Disability Resource Center 540-373-2559**
- **Access Independence, Inc. 540-662-4452**
- **Horizon Behavior Health 434-942-0370**

## **Leasing Preference for Target Population Identified in MOU between the Authority and the Commonwealth**

- **Unless prohibited by and applicable federal subsidy program.**
- **A “first preference” will be given for person in a target population identified in a memorandum of understanding between the Authority and one or more participating agencies of the Commonwealth.**
- **Will obtain tenant referrals from the Virginia Department of Medical Assistance Services (DMAS) or Virginia Department of Behavioral Health and Developmental Services (DBHDS) or any other agency approved by the Authority.**
- **Will Retain Tenant verification letter, Acknowledgment and Settlement Agreement Target Population Status**
- **Target Population units will be confirmed by VHDA.**
- **Elizabeth Seward, Director, Statewide Housing Initiatives, (804) 343-5615, elizabeth.seward@vhda.com**

## **2. Internet Search**

Palmers Creek Apartments will also be listed on the following websites:

[www.virginiahousingsearch.com](http://www.virginiahousingsearch.com)

[www.hud.gov](http://www.hud.gov)

[www.craigslist.org](http://www.craigslist.org)

[accessva.org](http://accessva.org)

[dbhds.virginia.gov](http://dbhds.virginia.gov)

## **3. Print Media**

Print media sources will also be identified in the Lynchburg area that cater to people with disabilities as well as the public at large. These sources may include, but are not limited to, rental magazines such as the *Apartment Shoppers Guide*, *Apartments For Rent*, local newspapers, etc. All advertising materials related to the project will contain the Equal Housing Opportunity logo, slogan or statement, in compliance with the Fair Housing Act, as well as the fact that units for people with disabilities are available.

## **4. Resident Referrals**

An effective Resident Referral program will be set up, in which current residents are rewarded for referring friends, coworkers, and others who may have disabilities to the property. These referrals are generally the best form of advertising as it attracts friends who will want to reside together, thus binding the community. ***Residents will be offered incentives, to be determined, for referring qualified applicants who rent at the property.*** Flyers will be distributed to residents along with the resident newsletter announcing

the tenant referral program.

## 5. Marketing Materials

Additional marketing materials are needed in order to further support the specific marketing effort to people with disabilities. All printed marketing materials will include the EHO logo. The marketing will also emphasize the physical and administrative compliance with Americans with Disabilities Act.

These marketing materials include:

- **Brochures or news media coverage** –A simple, two color brochure may be produced at low cost which will effectively sell the apartments and community. A brochure will include a listing of features and amenities. News media may include the local newspaper and/or the local television station coverage.
- **Flyers** - As mentioned earlier, a flyer campaign can be used effectively to market the community. Each flyer should incorporate graphics as well as a small amount of copy and should be designed to generate traffic.
- **Resident Referral** - The least expensive form of advertising is through Resident Referrals. A flyer should be created and distributed to all residents. (\$50 - \$100 per referral, paid upon move in). In addition to being distributed to all residents, the referral flyer should be left in the

Management office and should be included in the move in packet. (People are most inclined to refer their friends in the first few weeks of their tenancy.) The flyers will be changed to reflect the season or any type of special referral program.

### **III. Public and Community Relations**

Equal Housing Opportunity promotions - all Site Signage containing the EHO logo and Fair Housing posters are displayed in English and Spanish in the Rental Office. Bonaventure Property Management Services, LLC encourages and supports an affirmative marketing program in which there are no barriers to obtaining housing because of race, color, religion, national origin, sex, elderliness, marital status, personal appearance, sexual orientation, familial status, physical or mental disability, political affiliation, source of income, or place of residence or business.

Additionally, a public relations program will be instituted to create a strong relationship between management and local disability organizations, neighborhood civic organizations, city officials, and other sources of potential qualified residents still to be identified.

### **IV. Tenant Selection and Orientation**

The first contact with the management operations is an important one in attracting qualified residents; therefore, the management/leasing offices should convey a sense of professionalism, efficiency, and cleanliness. The management/leasing office is designed to provide a professional leasing atmosphere, with space set aside specifically for applicant interviews and application assistance. The leasing interviews will be used to emphasize the respect afforded to the applicant and the responsibilities which the applicant will be expected to assume.

Times of Operation - the Management Office will be open Monday through Friday from 8:30 A.M. to 4:30 P.M. Applicants will be processed at the Management Office Tuesday, Wednesday and Thursday, in accordance with approved criteria. Move-in process and orientation to property - applicants meet with designated staff to discuss programs available on the property and will be supplied relevant information to assist them in their move.

Management staff will perform housekeeping/home visits, check previous landlord and personal references, perform criminal/sex offender and credit background checks and verify income for each application taken. Tenant Selection will include minimum income limits assigned by the Owner/HUD. New residents will be given an orientation to the property including a review of the rules and regulations, information on the area, proper use of appliances, move-out procedures, maintenance procedures, rent payment procedures, energy conservation, grievance procedures and a review of the Lease documents.

### **Tenant Selection Criteria**

Tenant Selection will include maximum income limits under the Low-Income Tax Credit and Section 8 programs. Selection criteria will also include student status guidelines pursuant to the Low-Income Housing Tax Credit program.

***Management will commit that no annual minimum income requirement that exceeds the greater of \$3,600 or 2.5 times the portion of rent to be paid by tenants receiving rental assistance***

### **Application Processing**

Application processing will be done at the Management Office by the housing staff who are well versed in Fair Credit Law. As stated before, the processing will include a review of housekeeping/home

visit, prior landlord references, personal references, criminal/sex offender and credit reporting and income verification. The housing staff will make further review for inaccuracies in the application. The annual income and family composition are the key factors for determining eligibility. However, the Housing Committee will also use the following criteria in selecting applicants for occupancy:

- Applicants must be individuals, not agencies or groups.
- Applicants must meet the current eligibility income limits for tax credits and any other program requirements.
- We will process the Rental Applications through a credit bureau to determine the credit worthiness of each applicant. If the score is below the threshold, and it has been determined that applicant has no bad credit *and* no negative rental history *and* no criminal history then the application can be conditionally approved after contacting the prior landlord. In these cases, the application must be reviewed by the Associate Director/ housing committee before final approval.

Note- If the applicant's denial is based upon a credit report, the applicant will be advised of the source of the credit report in accordance with the Federal Fair Reporting Act. Guidelines published by the Federal Trade Commission suggest that apartment managers fall under the provisions of the Act and are obligated to advise the person refused an apartment for credit reasons, the name and address of the credit reporting firm in writing. The credit report will not be shown to the applicant, nor will specific information be revealed.

- We will process the Rental Application through a credit bureau to determine any possible criminal conduct. Convictions will be considered, regardless of whether "adjudication" was withheld. A criminal background check will be used as part of the qualifying criteria. An applicant will automatically be denied if;
  - There is a conviction for the manufacture, sale, distribution, or possession with the intent to manufacture, sell or distribute a controlled substance within the past five years.
  - There is evidence in the criminal history that reveals that the applicant has developed a pattern of criminal behavior, and such behavior presents a real or potential threat to residents and/or property.
  - The application will be suspended if an applicant or member of the applicant's family has been arrested for a crime but has not yet been tried. The application will be reconsidered, within the above guidelines, after such legal proceedings have been concluded at applicants' request.
- Applicants must provide complete and accurate verification of all income of all family members. The household's annual income may not exceed the applicable limit and the household must meet the subsidy or assisted Income Limits as established for the area in which YOUR Apartments is located. The annual income is compared to the area's Income Limits to determine eligibility.
- Family composition must be compatible for units available on the property.
- Applicants must receive satisfactory referrals from all previous Landlords.
- Applicants must provide verification of full-time student status for all individuals listed on the application as full-time student for tax credit units.
- Applicants must not receive a poor credit rating from the Credit Bureau and other credit reporting agencies and must demonstrate an ability to pay rent on time.
- Applicants must provide a doctor's statement and/or other proof of any handicap or disability.

- Applicants must provide a birth certificate or other acceptable HUD approved form of documentation for all household members.
- Applicants must complete the Application for Lease and all verification forms truthfully.
- Applicants must provide all information required by current Federal regulations and policies.
- Applicants must have the demonstrated ability to maintain acceptable housekeeping standards.
- Applicants must meet current Federal program eligibility requirements for tax credits and any other programs.
- Preference will be given to those households whose family members are handicapped or disabled for housing in the units specifically designated for the handicapped or disabled.
- Applicants who meet the above criteria will be placed on a waiting list based on the date and time of their application. If an applicant turns down a unit for any reason, the applicant will be moved to the bottom of the waiting list. If the applicant turns down a unit for any reason a second time, the applicant will be removed from the waiting list.
- Held Vacant for 60 Days**

**Unit must be held vacant for 60 days during which marketing efforts must be documented. However, if marketing to the Target Population is deemed to be conducted satisfactorily on an ongoing basis throughout the year and management can provide sufficient documentation to VHDA's Compliance Officer, management may request the ability to lease 60-point Units and 30-point Units, to a household not in the Target Population without the unit remaining vacant for the 60-day timeframe. "Ongoing basis" means contact to at least two (2) resources at least monthly in the manner noted below at any time the required number of units is not actually occupied by the Target Population.**

**Each time a vacancy occurs in a 60-point Unit or a 30-point Unit, if a qualified household including a person in the Target Population is not located in the 60-day timeframe, the owner or manager may submit the evidence of marketing to VHDA's Compliance Officer and request approval to rent the unit to an income-qualified household not a part of the Target Population. If the request is approved, the lease must contain a provision that the household must move to a vacant unit of comparable size in the development if a household in the Target Population applies for the unit. The move will be paid for by the owner.**

**If no vacant unit of comparable size is available at that time, the Target Population prospective tenant should be placed on the development's waiting list and placed in the 60-point Unit or 30-point Unit, when the first available vacant comparably sized unit becomes available to move the non-Targeted Population tenant.**

**NOTE: The move of the temporary/non-disabled tenant will be paid for by the owner.**