

FF. Right of First Refusal Template

RECORDING REQUESTED BY: _____
AND WHEN RECORDED MAIL TO: _____

RIGHT OF FIRST REFUSAL AGREEMENT

([Project name] Apartments)

RIGHT OF FIRST REFUSAL AGREEMENT (the “Agreement”) dated as of [Closing Date] by and among [OWNER ENTITY], a Virginia limited liability company (the “Owner” or the “Company”), [_____], a Virginia non-stock nonprofit corporation (the “Grantee”), and is consented to by [MANAGING MEMBER ENTITY], a Virginia limited liability company (the “Managing Member”), [INVESTOR ENTITY], a [_____] limited liability company (the “Investor Member”) and [_____] SPECIAL LIMITED PARTNER, L.L.C., a [_____] limited liability company (the “Special Member”). The Managing Member, the Investor Member and the Special Member are sometimes collectively referred to herein as the “Consenting Members”. The Investor Member and Special Member are sometimes collectively referred to herein as the “Non-Managing Members”. This Agreement shall be fully binding upon and inure to the benefit of the parties and their successors and assigns to the foregoing.

Recitals

- A. The Owner, pursuant to its [Amended and Restated] Operating Agreement dated on or about the date hereof by and among the Consenting Members (the “Operating Agreement”), is engaged in the ownership and operation of an [_____]-unit apartment project for families located in [_____], Virginia and commonly known as “[Project name] Apartments” (the “Project”). The real property comprising the Project is legally defined on **Exhibit A**.
- B. The Grantee is a member of the Managing Member of the Owner and is instrumental to the development and operation of the Project; and
- C. The Owner desires to give, grant, bargain, sell and convey to the Grantees certain rights of first refusal to purchase the Project on the terms and conditions set forth herein;
- D. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Operating Agreement.

NOW, THEREFORE, 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 the parties hereto acknowledge, the parties hereby agree as follows:

Section 1. Right of First Refusal

The Owner hereby grants to the Grantee a right of first refusal (the “Refusal Right”) to purchase the real or leasehold estate, fixtures, and personal property comprising the Project or associated with the physical operation thereof and owned by the Company at the time (the “Property”), for the price and subject to the other terms and conditions set forth below.

The Property will include any reserves of the Partnership that is required by Virginia Housing Development Authority (“Virginia Housing” or the “Credit Authority”) or any lender of a loan being assumed in connection with the exercise of the Refusal Right to remain with the Project.

Section 2. Exercise of Refusal Right; Purchase Price

- A. After the end of the Compliance Period, the Company agrees that it will not sell the Property or any portion thereof to any Person without first offering the Property to the Grantee (the “Refusal Right”), for the Purchase Price (as defined in Section 3); *provided, however,* that such Refusal Right shall be conditioned upon the receipt by the Company of a “bona fide offer” (the acceptance or rejection of which shall not require the Consent of the Members). The Company shall give the notice of its receipt of such offer (the “Offer Notice”) and shall deliver a copy of the Offer Notice to the Grantee. Upon receipt by the Grantee of the Offer Notice, the Grantee shall have 90 days to deliver to Company a written notice of its intent to exercise the Refusal Right (the “Election Notice”). An offer made with the purchase price and basic terms of the proposed sale from a third party shall constitute a “bona fide offer” for purposes of this Agreement. Such offer (i) may be solicited by the Grantee or the Managing Member (with such solicitation permitted to begin at any time following the end of the fourteenth (14th) year of the Compliance Period provided that the Election Notice may not be sent until the end of the Compliance Period) and (ii) may contain customary due diligence, financing, and other contingencies. Notwithstanding anything to the contrary herein, a sale of the Project pursuant to the Refusal Right shall not require the Consent of the Non-Managing Members [or of Virginia Housing].
- B. If the Grantee fails to deliver the Election Notice within ninety (90) days of receipt of the Offer Notice, or if such Election Notice is delivered but the Grantee does not consummate the purchase of the Project within 270 days from the date of delivery of the Election Notice (each, individually, a “Terminating Event”), then its Refusal Right shall terminate and the Company shall be permitted to sell the Property free of the Refusal Right.

Section 3. Purchase Price; Closing

- A. The purchase price for the Property pursuant to the Refusal Right (the “Purchase Price”) shall equal the sum of (i) the principal amount of all outstanding indebtedness secured by the Project, and any accrued interest on any of such debts and (ii) all federal, State, and local taxes attributable to such sale, including those incurred or to be incurred by the partners or members of the Non-Managing Members. Notwithstanding the foregoing, however, the Purchase Price shall never be less than the amount of the “minimum purchase price” as defined in Section 42(i)(7)(B) of the Code. The Refusal Right granted hereunder is intended to satisfy the requirements of Section 42(i)(7) of the Code and shall be interpreted consistently therewith. In computing such price, it shall be assumed that each of the Non-Managing Members of the Owner (or their constituent partners or members) has an effective combined federal, state and local income tax rate equal to the maximum of such rates in effect on the date of Closing.
- B. All costs of the Grantee’s purchase of the Property pursuant to the Refusal Right, including any filing fees, shall be paid by Grantee.

C. The Purchase Price shall be paid at Closing in one of the following methods:

- (i) the payment of all cash or immediately available funds at Closing, or
- (ii) the assumption of any assumable Loans if Grantee has obtained the consent of the lenders to the assumption of such Loans, which consent shall be secured at the sole cost and expense of Grantee; provided, however, that any Purchase Price balance remaining after the assumption of the Loans shall be paid by Grantee in immediately available funds.

Section 4. Conditions Precedent; Termination

A. Notwithstanding anything in this Agreement to the contrary, the right of the Grantee to exercise the Refusal Right and consummate any purchase pursuant thereto is contingent on each of the following being true and correct at the time of exercise of the Refusal Right and any purchase pursuant thereto:

- (i) the Grantee or its assignee shall be a “qualified nonprofit organization” as defined in Section 42(h)(5)(C) of the Code or another qualified purchaser described in Section 42(i)(7)(A) of the Code (collectively, each, a “Qualified Beneficiary”); and
- (ii) the Project continues to be a “qualified low-income housing project” within the meaning of Section 42 of the Code.

B. This Agreement shall automatically terminate upon the occurrence of any of the following events and, if terminated, shall not be reinstated unless such reinstatement is agreed to in a writing signed by the Grantee and each of the Consenting Members:

- (i) the transfer of the Property to a lender in total or partial satisfaction of any loan; or
- (ii) any transfer or attempted transfer of all or any part of the Refusal Right by the Grantee, whether by operation of law or otherwise, except as otherwise permitted under Section 7 of this Agreement; or
- (iii) the Project ceases to be a “qualified low-income housing project” within the meaning of Section 42 of the Code; or
- (iv) the Grantee fails to deliver its Election Notice or consummate the purchase of the Property within the time frames set forth in Section 2 above.

C. If the Investor Member removes the Managing Member from the Company for failure to cure a default under the Operating Agreement after all applicable notice and cure periods, the Investor Member may elect to exercise any rights it has under the Operating Agreement to terminate this Agreement and to exercise any rights it has under the Operating Agreement to release this Agreement as a lien against the Project, upon first obtaining the prior written consent of Virginia Housing, which consent may be granted or withheld in Virginia Housing’s sole discretion.

Section 5. Contract and Closing

Upon determination of the purchase price, the Owner and the Grantee shall enter into a written contract for the purchase and sale of the Property in accordance with the terms of this Agreement and containing such other terms and conditions as are standard and customary for similar commercial transactions in the geographic area which the Property is located, providing for a closing (the “Closing”) to occur in the [_____], Virginia not later than the time frames set forth in Section 2. In the absence of any such contract, this Agreement shall be specifically enforceable upon the exercise of the Refusal Right.

Section 6. Conveyance and Condition of the Property

The Owner's right, title and interest in the Property shall be conveyed by quitclaim deed or an assignment of lease, subject to such liens, encumbrances and parties in possession as shall exist as of the date of Closing. The Grantee shall accept the Property **“AS IS, WHERE IS”** and **“WITH ALL FAULTS AND DEFECTS,”** latent or otherwise, without any warranty or representation as to the condition thereof whatsoever, including without limitation, without any warranty as to fitness for a particular purpose, habitability, or otherwise and no indemnity for hazardous waste or other conditions with respect to the Property will be provided. It is a condition to Closing that all amounts due to the Owner and the Investor Member from the Grantee or its Affiliates be paid in full. The Grantee shall pay all closing costs, including, without limitation, the Owner's attorney's fees. Upon closing, the Owner shall deliver to the Grantee, along with the deed or assignment of lease to the property, an ALTA owner's (leasehold, as applicable) title insurance policy dated as of the close of escrow in the amount of the purchase price, subject to the liens, encumbrances and other exceptions then affecting the title.

Section 7. Transfer

The Refusal Right shall not be transferred to any Person without the Consent of the Investor Member, except that the Grantee may assign all or any of its rights under this Agreement to an Affiliate of Grantee (a “Permitted Assignee”) at the election and direction of the Grantee or to any assignee that shall be a “qualified nonprofit organization” as defined in Section 42(h)(5)(C) of the Code or another qualified purchaser described in Section 42(i)(7)(A) of the Code (collectively, each, a “Qualified Beneficiary”).

In the case of any transfer of the Refusal Right (i) all conditions and restrictions applicable to the exercise of the Refusal Right or the purchase of the Property pursuant thereto shall also apply to such transferee, and (ii) such transferee shall be disqualified from the exercise of any rights hereunder at all times during which Grantee would have been ineligible to exercise such rights hereunder had it not effected such transfer.

Section 8. Rights Subordinate; Priority of Requirements of Section 42 of the Code

This Agreement is subordinate in all respects to any regulatory agreements and to the terms and conditions of the Mortgage Loans encumbering the Property. In addition, it is the intention of the parties that nothing in this Agreement be construed to affect the Owner's status as owner of the Property for federal income tax purposes prior to exercise of the Refusal Right granted hereunder. Accordingly, notwithstanding anything to the contrary contained herein, both the grant and the exercise of the Refusal Right shall be subject in all respects to all applicable provisions of Section 42 of the Code, including, in particular, Section 42(i)(7). In the event of a conflict between the provisions contained in this Agreement and Section 42 of the Code, the provisions of Section 42 shall control.

Section 9. Option to Purchase

A. The parties hereto agree that if either the Code is revised or the Service hereafter issues public authority to permit the owner of a low-income housing tax credit project to grant an “option to purchase” pursuant to Section 42(i)(7) of the Code (or other applicable provision of Section 42) as opposed to a “right of first refusal” without adversely affecting the status of such owner as owner of its project for federal income tax purposes, then the

parties shall amend this Agreement and the Owner shall grant the Grantee an option to purchase the Property at the Purchase Price provided in Section 3 hereof and that meets the requirements of Code Section 42.

- B. The parties hereto agree that if either the Code is revised or the Service hereafter issues public authority to permit the owner of a low-income housing tax credit project to grant a “right of first refusal to purchase partner interests” and/or “purchase option to purchase partner interests” pursuant to Section 42(i)(7) of the Code (or other applicable provision) as opposed to a “right of first refusal to purchase the Project” without adversely affecting the status of such owner as owner of its project for federal income tax purposes (or the status of the Investor Member as a partner of the Company for federal income tax purposes) then the parties shall amend this Agreement and the Investor Members shall provide a right of first refusal and/or purchase option, as the case may be, to acquire their Interests for the Purchase Price provided in Section 3 hereof and that meets the requirements of Code Section 42.

Section 10. Notice

Except as otherwise specifically provided herein, all notices, demands or other communications hereunder shall be in writing and shall be deemed to have been given and received (i) two (2) business days after being deposited in the United States mail and sent by certified or registered mail, postage prepaid, (ii) one (1) business day after being delivered to a nationally recognized overnight delivery service, (iii) on the day sent by telecopier or other facsimile transmission, answer back requested, or (iv) on the day delivered personally, in each case, to the parties at the addresses set forth below or at such other addresses as such parties may designate by notice to the other party:

- (i) If to the Owner, at the principal office of the Company set forth in Article II of the Operating Agreement;
- (ii) If to a Consenting Member, at their respective addresses set forth in Schedule A of the Operating Agreement;
- (iii) If to the Grantee, [_____], _____ ; and

Section 11. 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.

Section 12. Binding Provisions

The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Agreement.

Section 13. Counterparts

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

Section 14. 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 law. Notwithstanding the foregoing, Company, Investor Member and Grantee do not intend the Refusal Right in this Agreement to be a common law right of first refusal but rather intend it to be understood and interpreted as a mechanism authorized by Section 42 of the Code to allow nonprofit entities to preserve affordable housing for low-income families in accordance with Grantee's charitable objectives.

Section 15. Headings

All headings in this Agreement are for convenience of reference only. Masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

Section 16. Amendments

This Agreement shall not be amended except by written agreement between Grantee and the Owner with the consent of each of the Consenting Members [and Virginia Housing].

Section 17. Time

Time is of the essence with respect to this Agreement, and all provisions relating thereto shall be so construed.

Section 18. Legal Fees

Except as otherwise provided herein, in the event that legal proceedings are commenced by the Owner against the Grantee or by the Grantee against the Owner in connection with this Agreement or the transactions contemplated hereby, the prevailing party shall be entitled to recover all reasonable attorney's fees and expenses.

Section 19. Subordination

This Agreement is and shall remain automatically subject and subordinate to any bona fide mortgage to (or assigned to) an institutional or governmental lender with respect to the Project and, in the event of a foreclosure of any such mortgage, or of the giving of a deed in lieu of foreclosure to any such mortgagee, this Agreement shall become void and shall be of no further force or effect.

Section 20. Rule Against Perpetuities Savings Clause

The term of this Agreement will be ninety years commencing on the date first written above unless sooner terminated pursuant to the provisions hereof. If any provision of this Agreement is construed as violating and applicable “Rule Against Perpetuities” by statute or common law, such provision will be deemed to remain in effect only until the death of the last survivor of the now living descendants of any member of the 116th Congress of the United States, plus twenty-one (21) years thereafter. This Agreement and the Refusal Right herein granted are covenants running with the land and the terms and provisions hereof will be binding upon, inure to the benefits of and be enforceable by the parties hereto and their respective successors and assigns.

Section 21. Third Party Beneficiary; Virginia Housing Rights and Powers

The Virginia Housing Development Authority (“Virginia Housing”) shall be a third party beneficiary to this Agreement, and the benefits of all of the covenants and restrictions hereof shall inure to the benefit of Virginia Housing, including the right, in addition to all other remedies provided by law or in equity, to apply to any court of competent jurisdiction within the Commonwealth of Virginia to enforce specific performance by the parties or to obtain an injunction against any violations hereof, or to obtain such other relief as may be appropriate. The Authority and its agents shall have those rights and powers with respect to the Project as set forth in the Act and the Virginia Housing Rules and Regulations promulgated thereunder, including without limitation, those rights and powers set forth in Chapter 1.2 of Title 365 of the Code of Virginia (1950), as amended, and 13VAC10-180-10 et seq., as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Right of First Refusal Agreement as of the date first stated above.

OWNER:

[OWNER ENTITY], a [Virginia] limited liability company

By: [Managing Member Entity], a [Virginia] limited liability company, its managing member

By: _____

By: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____

On _____, 20 ____, before me, the undersigned, a notary public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity as [_____], the managing member of the [Managing Member Entity], which is the managing member of [Owner Entity] and that by her signature on the instrument, the entity, individual or the person on behalf of which the individual acted, executed the instrument.

Notary Public: _____

Commission Expires: _____

Registration No.: _____

GRANTEE:

[_____] , a Virginia non-stock nonprofit corporation

By: _____

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____

On _____ , 20 ____ , before me, the undersigned, a notary public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity as [_____], and that by her signature on the instrument, the entity, individual or the person on behalf of which the individual acted, executed the instrument.

Notary Public: _____

Commission Expires: _____

Registration No.: _____

The undersigned hereby consents to the foregoing Right of First Refusal Agreement as of the date first set forth hereinabove.

MANAGING MEMBER:

[MANAGING MEMBER ENTITY], a Virginia limited liability company

By: _____

By: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____

On _____, 20____, before me, the undersigned, a notary public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [she] executed the same in her capacity as [_____], the sole member of [Managing Member Entity], and that by her signature on the instrument, the entity, individual or the person on behalf of which the individual acted, executed the instrument.

Notary Public: _____

Commission Expires: _____

Registration No.: _____

The undersigned hereby consents to the foregoing Right of First Refusal Agreement as of the date first set forth hereinabove.

INVESTOR MEMBER:

[INVESTOR ENTITY], a [_____] [_____]
limited liability company

By: _____

By: _____

SPECIAL MEMBER:

[_____] [_____] **SPECIAL LIMITED PARTNER, L.L.C.**, a [_____] [_____]
limited liability company

By: [_____], LLC, a [_____]
[_____] limited liability company, its manager

By: _____

STATE OF _____

CITY/COUNTY OF _____

On _____, 20 ____, before me, the undersigned, a notary public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as [_____], the manager of [Investor Entity], a [_____] limited liability company, and [_____] **Special Limited Partner, L.L.C.**, a [_____] limited liability company, and that by his signature on the instrument, the entity, individual or the person on behalf of which the individual acted, executed the instrument.

Notary Public _____

Commission expires _____

EXHIBIT A

LEGAL DESCRIPTION

[insert legal]

Appendices continued

GG. Marketing Plan Requirements

Marketing Plan Instructions for a Leasing Preference

Properties with a required leasing preference commitment must have a marketing plan and includes points awarded for Section 504 units with accessible features (“special needs units”).

Properties must actively market units to individuals including at least one person with a disability in accordance with the marketing plan .

While there is no standard marketing plan language, every marketing plan must:

- a. Be customized for the property-specific leasing preference or special needs tenant population that the property is intending to serve;
- b. Include information on networking contacts with centers for independent living, disability services boards and address the efforts that will be necessary to fill a vacant unit;
- c. State that referred applicants will be given a leasing preference to fill the property’s required unit commitment;
- d. State that units will be held vacant and actively marketed to the networking contacts included in the written marketing plan;
- e. State that units may be held vacant for 60 days during which ongoing marketing must be documented State that the property will be listed on [VirginiaHousingSearch.com](https://www.virginiahousingsearch.com).

Leasing Preference Required Property Marketing

On-going marketing to the network contacts in the marketing plan for referrals is required until the unit commitment is met and maintained throughout the extended use period.

60 Day-Hold Unit

Units must be held vacant for 60 days during which active marketing efforts must be documented. However, if marketing to the 50-point special needs unit is deemed to be conducted satisfactorily on an ongoing basis throughout the year and management can provide sufficient documentation to Virginia Housing's Compliance Officer, management may request the ability to lease 50-point units to a household not in the special needs 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 special needs population.

Properties that fail to document ongoing active marketing to the marketing plan network contacts to lease vacant leasing preference units, may be cited with non-compliance, and may be required to hold unit(s) vacant for up to 60 days to actively market unfilled leasing preference units. Non-compliance with the marketing requirement is subject to a penalty point deduction in future funding requests with the Authority.

NOTE: The move of the temporary/non-disabled tenant will be paid for by the owner.

HH. Diversity, Equity and Inclusion Incentive

SWaM CONTRACT CERTIFICATION

(TO BE PROVIDED AT TIME OF APPLICATION)

LIHTC Applicant Name _____

Name of SWaM Service Provider _____

Part II, 13VAC10-180-60(E)(5)(e) of the Qualified Allocation Plan (the “Plan”) of the Virginia Housing Development Authority (the “Authority” formerly Virginia Housing) for the allocation of federal low income housing tax credits (“Credits”) available under §42 of the Internal Revenue Code, as amended, provides that an applicant may receive five (5) points toward its application for Credits for entering into at least one contract for services provided by a business certified as Women-Owned, Minority-Owned, or Service Disabled Veteran-owned through the Commonwealth of Virginia’s Small, Women-owned, and Minority-owned Business certification program (SWaM Program). Any applicant seeking points from Part II, 13VAC10-180-60(E)(5)(e) of the Plan must provide in its application this certification together with a copy of the service provider’s certification from the Commonwealth of Virginia’s SWaM Program. The certification and information requested below will be used by the Authority in its evaluation of whether an applicant meets such requirements.

Complete a separate form for each SWaM Service Provider.

INSTRUCTIONS

Please complete all parts below. Omission of any information or failure to certify any of the information provided below may result in failure to receive points under Part II, 13VAC10-180-60(E)(5)(e) of the Plan.

1. The SWaM Service Provider will provide the following services and roles eligible for points under the Plan:
 - consulting services to complete the LIHTC application;
 - ongoing development services through the placed in service date;
 - general contractor;
 - architect;
 - property manager;
 - accounting services;
 - or legal services.
2. Please describe in the space below the nature of the services contracted for with the SWaM certified service provider listed above. Include in your answer the scope of services to be provided, when said services are anticipated to be rendered, and the length of the contract term. _____

3. Attach to this certification a copy of the service provider’s current certification from the Commonwealth of Virginia’s SWAM Program.
4. The undersigned acknowledge by their signatures below that prior to the Authority’s issuance of an 8609 to the applicant, the undersigned will be required to certify that the SWaM service provider successfully rendered the services described above, that said services fall within the scope of services outlined within Part II, 13VAC10-180-60(E)(5)(e) of the Plan, and that the undersigned service provider is still a business certified as Women-Owned, Minority-Owned, or Service Disabled Veteran-owned through the Commonwealth of Virginia’s SWaM) Program.

CONTRACT CERTIFICATION

The undersigned do hereby certify and acknowledge that they have entered into with each another at least one contract for services as described herein, that said services fall within the scope of services outlined within Part II, 13VAC10-180-60(E)(5)(e) of the Plan, that the undersigned service provider is a business certified as Women- Owned, Minority-Owned, or Service Disabled Veteran-owned through the Commonwealth of Virginia’s SWaM Program, and that it is the current intention of the undersigned that the services be performed (i.e., the contract is bona fide and not entered into solely for the purpose of obtaining points under the Plan). The undersigned do hereby further certify that all information in this certification is true and complete to the best of their knowledge, that the Authority is relying upon this information for the purpose of allocating Credits, and that any false statements made herein may subject both the undersigned applicant and the undersigned service provider to disqualification from current and future awards of Credits in Virginia.

APPLICANT

Name of Applicant _____

Signature of Applicant _____

Printed Name and Title of Authorized Signer

SWAM CERTIFIED SERVICE PROVIDER

Name of SWaM Certified Service Provider _____

Signature of SWaM Certified Service Provider _____

Printed Name and Title of Authorized Signer

SWaM CONTRACT CERTIFICATION

(TO BE PROVIDED IMMEDIATELY PRIOR TO ISSUANCE OF 8609)

LIHTC Applicant Name _____

Name of SWaM Service Provider _____

Part II, 13VAC10-180-60(E)(5)(e) of the Qualified Allocation Plan (the “Plan”) of the Virginia Housing Development Authority (the “Authority” formerly Virginia Housing) for the allocation of federal low income housing tax credits (“Credits”) available under §42 of the Internal Revenue Code, as amended, provides that an applicant may receive five (5) points toward its application for Credits for entering into at least one contract for services provided by a business certified as Women-Owned, Minority-Owned, or Service Disabled Veteran-owned through the Commonwealth of Virginia’s Small, Women-owned, and Minority-owned Business certification program (SWaM Program). Any applicant seeking points from Part II, 13VAC10-180-60(E)(5)(e) of the Plan must provide in its application this certification together with a copy of the service provider’s certification from the Commonwealth of Virginia’s SWaM Program. The certification and information requested below will be used by the Authority in its evaluation of whether an applicant meets such requirements.

INSTRUCTIONS

Please complete parts 1 and 2 below. Omission of any information or failure to certify any of the information provided below may result in failure to receive points under Part II, 13VAC10-180-60(E)(5)(e) of the Plan.

1. Please describe in the space below the nature of the services contracted for with the SWaM certified service provider listed above. Include in your answer the scope of services provided and when said services were rendered.

2. Attach to this certification a copy of the service provider’s current certification from the Commonwealth of Virginia’s SWaM Program.
3. If the undersigned SWaM service provider is different from the service provider listed on the SWaM Contract Certification provided to the Authority with the application for Credits, please describe the details surrounding why the original contract was terminated, when it was terminated, when the new contract with the undersigned SWaM service provider was executed, which services or portion thereof (if any) from the original contract were performed by the original service provider, and which services or portion thereof were performed by the undersigned SWaM service provider.

CONTRACT CERTIFICATION

The undersigned do hereby certify and acknowledge that they previously entered into with one another at least one bona fide contract for services as described herein, that said services were successfully and properly performed, that said services fall within the scope of services outlined within Part II, 13VAC10-180-60(E)(5)(e) of the Plan, and that the undersigned service provider is a business certified as Women-Owned, Minority-Owned, or Service Disabled Veteran-owned through the Commonwealth of Virginia’s Small, Women-owned, and Minority-owned Business (SWaM) certification program. The undersigned do hereby further certify that all information in this certification is true and complete to the best of their knowledge, that the Authority is relying upon this information for the purpose of allocating Credits, and that any false statements made herein may subject both the undersigned applicant and the undersigned service provider to disqualification from current and future awards of Credits in Virginia.

APPLICANT

Name of Applicant _____

Signature of Applicant _____

Printed Name and Title of Authorized Signer

SWAM CERTIFIED SERVICE PROVIDER

Name of SWaM Certified Service Provider _____

Signature of SWaM Certified Service Provider _____

Printed Name and Title of Authorized Signer
