

---

---

# 2020 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 **12:00 PM**  
Richmond, VA Time On **March 12, 2020**

#### 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 2020 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 **12:00 PM** Richmond Virginia time on **March 12, 2020**. 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 only accepts files via our work center sites on Procorem. Contact [TaxCreditApps@vhda.com](mailto:TaxCreditApps@vhda.com) for access to Procorem or for the creation of a new deal workcenter. 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

► 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

Name	Email	Phone Number
JD Bondurant	<a href="mailto:johndavid.bondurant@vhda.com">johndavid.bondurant@vhda.com</a>	(804) 343-5725
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
Phil Cunningham	<a href="mailto:phillip.cunningham@vhda.com">phillip.cunningham@vhda.com</a>	(804) 343-5514
Pamela Freeth	<a href="mailto:pamela.freeth@vhda.com">pamela.freeth@vhda.com</a>	(804) 343-5563
Aniyah Moaney	<a href="mailto:Aniyah.moaney@vhda.com">Aniyah.moaney@vhda.com</a>	(804) 343-5518

**TABLE OF CONTENTS**

Click on any tab label to be directed to that tab within the application.

<b>TAB</b>	<b>DESCRIPTION</b>
1. <a href="#"><u>Submission Checklist</u></a>	Mandatory Items, Tabs and Descriptions
2. <a href="#"><u>Development Information</u></a>	Development Name and Locality Information
3. <a href="#"><u>Request Info</u></a>	Credit Request Type
4. <a href="#"><u>Owner Information</u></a>	Owner Information and Developer Experience
5. <a href="#"><u>Site and Seller Information</u></a>	Site Control, Identity of Interest and Seller info
6. <a href="#"><u>Team Information</u></a>	Development Team Contact information
7. <a href="#"><u>Rehabilitation Information</u></a>	Acquisition Credits and 10-Year Look Back Info
8. <a href="#"><u>Non Profit</u></a>	Non Profit Involvement, Right of First Refusal
9. <a href="#"><u>Structure</u></a>	Building Structure and Units Description
10. <a href="#"><u>Utilities</u></a>	Utility Allowance
11. <a href="#"><u>Enhancements</u></a>	Building Amenities above Minimum Design Requirements
12. <a href="#"><u>Special Housing Needs</u></a>	504 Units, Sect. 8 Waiting List, Rental Subsidy
13. <a href="#"><u>Unit Details</u></a>	Set Aside Selection and Breakdown
14. <a href="#"><u>Budget</u></a>	Operating Expenses
15. <a href="#"><u>Project Schedule</u></a>	Actual or Anticipated Development Schedule
16. <a href="#"><u>Hard Costs</u></a>	Development Budget: Contractor Costs
17. <a href="#"><u>Owner's Costs</u></a>	Development Budget: Owner's Costs, Developer Fee, Cost Limits
18. <a href="#"><u>Eligible Basis</u></a>	Eligible Basis Calculation
19. <a href="#"><u>Sources of Funds</u></a>	Construction, Permanent, Grants and Subsidized Funding Sources
20. <a href="#"><u>Equity</u></a>	Equity and Syndication Information
	<a href="#"><u>Gap Calculation</u></a>
21. <a href="#"><u>Cash Flow</u></a>	Cash Flow Calculation
22. <a href="#"><u>BINs</u></a>	BIN by BIN Eligible Basis
24. <a href="#"><u>Owner Statement</u></a>	Owner Certifications
25. <a href="#"><u>Architect's Statement</u></a>	Architect's agreement with proposed deal
26. <a href="#"><u>Scoresheet</u></a>	Self Scoresheet Calculation
27. <a href="#"><u>Development Summary</u></a>	Summary of Key Application Points
28. <a href="#"><u>Efficient Use of Resources</u></a>	Calculation of Score
29. <a href="#"><u>Efficient Use of Resources - TE Bonds</u></a>	Calculation of Score

## 2020 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.

- |                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | \$1,000 Application Fee <b>(MANDATORY)</b>  |
| <input checked="" type="checkbox"/> | Electronic Copy of the Microsoft Excel Based Application <b>(MANDATORY)</b>   |
| <input checked="" type="checkbox"/> | Scanned Copy of the <b>Signed</b> Tax Credit Application with Attachments (excluding market study and plans & specifications) <b>(MANDATORY)</b>              |
| <input checked="" type="checkbox"/> | Electronic Copy of the Market Study <b>(MANDATORY - Application will be disqualified if study is not submitted with application)</b>                          |
| <input checked="" type="checkbox"/> | Electronic Copy of the Plans and Unit by Unit writeup <b>(MANDATORY)</b>  |
| <input checked="" type="checkbox"/> | Electronic Copy of the Specifications <b>(MANDATORY)</b>  |
| <input type="checkbox"/>            | Electronic Copy of the Existing Condition questionnaire <b>(MANDATORY if Rehab)</b>   |
| <input type="checkbox"/>            | Electronic Copy of the Physical Needs Assessment <b>(MANDATORY at reservation for a 4% rehab request)</b>   |
| <input type="checkbox"/>            | Electronic Copy of Appraisal <b>(MANDATORY if acquisition credits requested)</b>  |
| <input checked="" type="checkbox"/> | Electronic Copy of Environmental Site Assessment (Phase I) <b>(MANDATORY if 4% credits requested)</b>   |
| <input checked="" type="checkbox"/> | Tab A: Partnership or Operating Agreement, including chart of ownership structure with percentage of interests and Developer Fee Agreement <b>(MANDATORY)</b> |
| <input checked="" type="checkbox"/> | Tab B: Virginia State Corporation Commission Certification <b>(MANDATORY)</b>   |
| <input checked="" type="checkbox"/> | Tab C: Principal's Previous Participation Certification <b>(MANDATORY)</b>  |
| <input checked="" type="checkbox"/> | Tab D: List of LIHTC Developments (Schedule A) <b>(MANDATORY)</b>   |
| <input checked="" type="checkbox"/> | Tab E: Site Control Documentation & Most Recent Real Estate Tax Assessment <b>(MANDATORY)</b>   |
| <input checked="" type="checkbox"/> | Tab F: RESNET Rater Certification <b>(MANDATORY)</b>  |
| <input checked="" type="checkbox"/> | Tab G: Zoning Certification Letter <b>(MANDATORY)</b>   |
| <input checked="" type="checkbox"/> | Tab H: Attorney's Opinion <b>(MANDATORY)</b>  |
| <input type="checkbox"/>            | Tab I: Nonprofit Questionnaire <b>(MANDATORY for points or pool)</b>  |
|                                     | 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)  |
| <input type="checkbox"/>            | Tab J: Relocation Plan and Unit Delivery Schedule <b>(MANDATORY)</b>  |
|                                     | Tab K: Documentation of Development Location:   |
| <input type="checkbox"/>            | K.1 Revitalization Area Certification   |
| <input checked="" type="checkbox"/> | K.2 Location Map  |
| <input checked="" type="checkbox"/> | K.3 Surveyor's Certification of Proximity To Public Transportation  |
| <input type="checkbox"/>            | Tab L: PHA / Section 8 Notification Letter  |
| <input type="checkbox"/>            | Tab M: Locality CEO Response Letter   |
| <input type="checkbox"/>            | Tab N: Homeownership Plan   |
| <input type="checkbox"/>            | Tab O: Plan of Development Certification Letter   |
| <input type="checkbox"/>            | Tab P: Developer Experience documentation and Partnership agreements  |
| <input type="checkbox"/>            | Tab Q: Documentation of Rental Assistance, Tax Abatement and/or existing RD or HUD Property   |
| <input checked="" type="checkbox"/> | Tab R: Documentation of Operating Budget and Utility Allowances   |
| <input type="checkbox"/>            | Tab S: Supportive Housing Certification   |
| <input type="checkbox"/>            | Tab T: Funding Documentation  |
| <input type="checkbox"/>            | Tab U: Documentation to Request Exception to Restriction-Pools With Little/No Increase in Rent Burdened Population  |
| <input type="checkbox"/>            | Tab V: Nonprofit or LHA Purchase Option or Right of First Refusal   |
| <input type="checkbox"/>            | Tab W: Internet Safety Plan and Resident Information Form (if internet amenities selected)  |
| <input type="checkbox"/>            | Tab X: Marketing Plan for units meeting accessibility requirements of HUD section 504   |
| <input type="checkbox"/>            | Tab Y: Inducement Resolution for Tax Exempt Bonds   |

**2020 Low-Income Housing Tax Credit Application For Reservation**

**VHDA TRACKING NUMBER**

**A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT**

Application Date: 9/23/20

1. Development Name: The Arbors at Williamsburg
2. Address (line 1): 1915 Pocahontas Trail  
 Address (line 2):   
 City: Williamsburg State: VA Zip: 23185
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 York 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: 509.00
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%
FALSE	TRUE	FALSE

**Enter only Numeric Values below:**

13. Congressional District: 2
- Planning District: 23
- State Senate District: 1
- State House District: 96

*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

150 Unit Age Restricted Community

**2020 Low-Income Housing Tax Credit Application For Reservation**

**VHDA TRACKING NUMBER**

**A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT**

Application Date:

9/23/20

A. GENERAL INFORMATION ABOUT PROPOSED DEVELOPMENT

Application Date: 9/23/20

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: Neil Morgan  
Chief Executive Officer's Title: Chief Administrative Officer Phone: (757) 890-3320  
Street Address: 224 Ballard Street  
City: York State: VA Zip: 23690

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, where are bonds being issued?

**ACTION:** Provide Inducement Resolution at **TAB Y** (if available)

**Skip to Number 4 below.**

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)

Name of companion development:

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

Total Units within 9% allocation request?

Total Units within 4% Tax Exempt allocation Request?

Total Units:

% of units in 4% Tax Exempt Allocation Request: 0.00%

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.)



**2020 Low-Income Housing Tax Credit Application For Reservation**

**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: Willisamsburg Senior, L.P.

Developer Name: Williamsburg Senior Developers, L.L.C.

Contact: M/M ▶ Mr. First: Brian MI: L Last: Staub

Address: 308 35th Street

City: Virginia Beach St. ▶ VA Zip: 23451

Phone: (757) 437-1677 Ext.      Fax:     

Email address: bstaub@marlyndv.com

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

Select type of entity: ▶ Limited Partnership Formation State: ▶ VA

Additional Contact: Please Provide Name, Email and Phone number.

Ben Rountree, brountree@marlyndv.com, 757-437-1677

- ACTION:** a. Provide Owner's organizational documents (e.g. Partnership agreements and Developer Fe agreement) (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.

<u>Names **</u>	<u>Phone</u>	<u>Type Ownership</u>	<u>% Ownership</u>
<u>M. David Jester</u>	<u>(757) 437-1677</u>	<u>Member of GP</u>	<u>40.000%</u>
<u>Scott A. Troutman</u>	<u>(757) 437-1677</u>	<u>Member of GP</u>	<u>20.000%</u>
<u>Christian Gardner</u>	<u>(757) 437-1677</u>	<u>Member of GP</u>	<u>20.000%</u>
<u>Brian L. Staub</u>	<u>(757) 437-1677</u>	<u>Member of GP</u>	<u>20.000%</u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>0.000%</u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>0.000%</u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>0.000%</u>

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**

---

- 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. .... **TRUE**

**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). .... **FALSE**

**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):

Select Type:  Purchase Contract

Expiration Date:

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.

**ACTION:** Provide documentation and most recent real estate tax assessment - **Mandatory TAB E**

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.....  .

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**.)

2020 Low-Income Housing Tax Credit Application For Reservation

D. SITE CONTROL

3. Seller Information:

Name: Ameritas Life Insurance Corporation

Address: 4550 Montgomery Ave, Suite 1000

City: Bethesda St.: MD Zip: 20814

Contact Person: Adam D. Caravas Phone: (402) 467-6957

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%

## 2020 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: Timothy O. Trant This is a Related Entity. FALSE  
Firm Name: Kaufman & Canoles, P.C.  
Address: 11815 Fountain Way, Suite 400, Newport News, VA 23606  
Email: totrant@kaufcan.com Phone: (757) 259-3823
2. Tax Accountant: Angela Kerns This is a Related Entity. FALSE  
Firm Name: Wall, Einhorn, Chernitzer  
Address: 150 West Main Street, Norfolk, VA 23510  
Email: akerns@wec-cpa.com Phone: (757) 625-4700
3. Consultant: Adam Reimert This is a Related Entity. FALSE  
Firm Name: AES Consulting Engineers Role:   
Address: 5248 Olde Towne Road, Suite 1  
Email: adam.reimert@aesva.com Phone: (757) 253-0040
4. Management Entity: Taylor Franklin This is a Related Entity. FALSE  
Firm Name: The Franklin Johnston Group  
Address: 300 32nd Street, Suite 310 Virginia Beach, VA 23451  
Email: tfranklin@tfjgroup.com Phone: (757) 965-6200
5. Contractor: M. David Jester This is a Related Entity. TRUE  
Firm Name: Marlyn Development Corporation  
Address: 308 35th Street, Suite 101  
Email: dj@marlyndv.com Phone: (757) 437-1677
6. Architect: Grey Mason This is a Related Entity. FALSE  
Firm Name: Cox, Kliewer & Company, P.C.  
Address: 2533 Virginia Beach Blvd, Virginia Beach, VA 23452  
Email: greym@coxkliewer.com Phone: (757) 431-0033
7. Real Estate Attorney Timothy O. Trant This is a Related Entity. FALSE  
Firm Name: Kaufman & Canoles, P.C.  
Address: 11815 Fountain Way, Suite 400, Newport News, VA 23606  
Email: totrant@kaufcan.com Phone: (757) 259-3823
8. Mortgage Banker:  This is a Related Entity. FALSE  
Firm Name:   
Address:   
Email:  Phone:
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.

2020 Low-Income Housing Tax Credit Application For Reservation

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 compliance period...
FALSE d. Own, either directly or through a partnership or limited liability company, 100% of the 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)

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: [Redacted]

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

Contact Person: [Redacted]

Street Address: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

Phone: [Redacted] Extension: [Redacted] Contact Email: [Redacted]



**G. NONPROFIT INVOLVEMENT**

---

D. Percentage of Nonprofit Ownership (All nonprofit applicants):

Specify the nonprofit entity's percentage ownership of the general partnership interest 0.0%

**3. Nonprofit/Local Housing Authority Purchase Option/Right of First Refusal**

A. FALSE After the mandatory 15-year compliance period, a qualified nonprofit or local housing authority will have the option to purchase or the right of first refusal to acquire the development for a price not to exceed the outstanding debt and exit taxes. Such debt must be limited to the original mortgage(s) unless any refinancing is approved by the nonprofit.

**Action:** Provide Option or Right of First Refusal in Recordable Form **(TAB V)**  
Provide Nonprofit Questionnaire (if applicable) **(TAB I)**

**Name of qualified nonprofit:** \_\_\_\_\_

or indicate true if Local Housing Authority FALSE

**Name of Local Housing Authority** \_\_\_\_\_

2. FALSE A qualified nonprofit or local housing authority submits a homeownership plan committing to sell the units in the development after the mandatory 15-year compliance period to tenants whose incomes shall not exceed the applicable income limit at the time of their initial occupancy.

**Action:** Provide Homeownership Plan **(TAB N)**

**NOTE:** Applicant waives the right to pursue a Qualified Contract.

**2020 Low-Income Housing Tax Credit Application For Reservation**

**H. STRUCTURE AND UNITS INFORMATION**

**# General Information**

a. Total number of <b>all</b> units in development	<u>150</u>	bedrooms	<u>258</u>
Total number of <b>rental</b> units in development	<u>150</u>	bedrooms	<u>258</u>
Number of low-income rental units	<u>30</u>	bedrooms	<u>38</u>
Percentage of rental units designated low-income	<u>20.00%</u>		
b. Number of new units:.....	<u>150</u>	bedrooms	<u>258</u>
Number of adaptive reuse units: .....	<u>0</u>	bedrooms	<u>0</u>
Number of rehab units:.....	<u>0</u>	bedrooms	<u>0</u>
c. If any, indicate number of planned exempt units (included in total of all units in development)			<u>0</u>
d. Total Floor Area For The Entire Development.....		<u>227,115.00</u>	(Sq. ft.)
e. Unheated Floor Area (i.e. Breezeways, Balconies, Storage).....		<u>12,945.00</u>	(Sq. ft.)
f. Nonresidential Commercial Floor Area (Not eligible for funding).....		<u>1,350.00</u>	
g. Total Usable Residential Heated Area.....		<u>212,820.00</u>	(Sq. ft.)
h. Percentage of Net Rentable Square Feet Deemed To Be <b>New Rental Space</b> .		<u>100.00%</u>	
i. Exact area of site in acres .....	<u>7.510</u>		
j. Locality has approved a final site plan or plan of development.....		<u>FALSE</u>	
If <b>True</b> , Provide required documentation ( <b>TAB O</b> ).			
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.....		<u>FALSE</u>	

**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**

**# 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	1245.17	SF	22	43
2BR Elderly	1501.19	SF	8	107
Eff - Garden	0.00	SF	0	0
1BR Garden	0.00	SF	0	0
2BR Garden	0.00	SF	0	0
3BR Garden	0.00	SF	0	0
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
			30	150

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

**# Structures**

a. Number of Buildings (containing rental units)..... 1

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: Storage units

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. 3  
 Elevator Type (if known) \_\_\_\_\_

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

**# 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>FALSE</u>                          |
| c. Exercise Room.....        | <u>TRUE</u>  | h. Pool.....               | <u>FALSE</u>                          |
| d. Gated access to Site..... | <u>FALSE</u> | i. Rental Office.....      | <u>TRUE</u>                           |
| e. Laundry facilities.....   | <u>FALSE</u> | j. Sports Activity Ct..... | <u>FALSE</u>                          |
|                              |              | k. Other:                  | <u>media rooms, gardens, dog park</u> |

l. Describe Community Facilities: community room, fitness center, billiards/game room, media room

m. Number of Proposed Parking Spaces.. 186  
 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. .... TRUE

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

**H. STRUCTURE AND UNITS INFORMATION**

---

**# 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.

**# 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	7.50%
Project Wide Capture Rate - Market Units	11.30%
Project Wide Capture Rate - All Units	10.20%
Project Wide Absorption Period (Months)	8

**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
- 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 RESNET rater certification (**TAB F**)

**ACTION:** Provide Internet Safety Plan and Resident Information Form (Tab W) if options selected below.

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

- FALSE a. A community/meeting room with a minimum of 749 square feet is provided.
- 0.00% 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.
- FALSE c. Water expense is sub-metered (the tenant will pay monthly or bi-monthly bill).
- FALSE d. All faucets, toilets and showerheads in each bathroom are WaterSense labeled products.
- FALSE e. Each unit is provided with the necessary infrastructure for high-speed internet/broadband service.
- FALSE 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. Every kitchen, living room and bedroom contains, at minimum, one USB charging port.
- 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

- 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:

- |                                |  |                                |  |
|--------------------------------|--|--------------------------------|--|
| <input type="checkbox"/> FALSE | Earthcraft Gold or higher certification        | <input type="checkbox"/> FALSE | National Green Building Standard (NGBS) certification of Silver or higher. |
| <input type="checkbox"/> FALSE | U.S. Green Building Council LEED certification | <input type="checkbox"/> FALSE | 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.)

- |                                |                                     |                                |                         |
|--------------------------------|-------------------------------------|--------------------------------|-------------------------|
| <input type="checkbox"/> FALSE | Zero Energy Ready Home Requirements | <input type="checkbox"/> FALSE | 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:

b. Number of Rental Units constructed to meet VHDA's Universal Design standards:

% of Total Rental Units

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

If not, please explain:

	<b>Architect of Record initial here that the above information is accurate per certification statement within this application.</b>
--	---

**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
- 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 RESNET rater certification (**TAB F**)

**ACTION:** Provide Internet Safety Plan and Resident Information Form (Tab W) if options selected below.

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

- FALSE a. A community/meeting room with a minimum of 749 square feet is provided.
- 0.00% 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.
- FALSE c. Water expense is sub-metered (the tenant will pay monthly or bi-monthly bill).
- FALSE d. All faucets, toilets and showerheads in each bathroom are WaterSense labeled products.
- FALSE e. Each unit is provided with the necessary infrastructure for high-speed internet/broadband service.
- FALSE 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. Every kitchen, living room and bedroom contains, at minimum, one USB charging port.
- 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**

- 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 standard:
- 0 b. Number of Rental Units constructed to meet VHDA's Universal Design standards:
- 0% % of Total Rental Units

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

If not, please explain: \_\_\_\_\_

 Architect of Record initial here that the above information is accurate per certification statement within this application.

**2020 Low-Income Housing Tax Credit Application For Reservation**

**I. UTILITIES**

1. Utilities Types:

- a. Heating Type Heat Pump
- b. Cooking Type Electric
- c. AC Type Central Air
- d. Hot Water Type Electric

2. Indicate True if the following services will be included in Rent:

- |                 |              |                  |              |
|-----------------|--------------|------------------|--------------|
| Water?.....     | <u>TRUE</u>  | Heat?.....       | <u>FALSE</u> |
| Hot Water?..... | <u>FALSE</u> | AC?.....         | <u>FALSE</u> |
| Lighting?.....  | <u>FALSE</u> | Sewer?.....      | <u>TRUE</u>  |
| Cooking? .....  | <u>FALSE</u> | Trash Removal? . | <u>TRUE</u>  |

Utilities	Enter Allowances by Bedroom Size				
	0-BR	1-BR	2-BR	3-BR	4-BR
Heating	0	7	11	0	0
Air Conditioning	0	10	15	0	0
Cooking	0	5	8	0	0
Lighting	0	5	8	0	0
Hot Water	0	5	8	0	0
Water	0	0	0	0	0
Sewer	0	0	0	0	0
Trash	0	0	0	0	0
Total utility allowance for costs paid by tenant	\$0	\$32	\$50	\$0	\$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: Energy Consumption Mode

**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**

**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.

# **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

(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 (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)

**FALSE**

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 requirements of section 504 of the Rehabilitation Act.**

**Architect of Record initial here that the above information is accurate per certification statement within this application.**

**K. SPECIAL HOUSING NEEDS**

---

**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.

# **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
- (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
- (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)

- FALSE 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 requirements of section 504 of the Rehabilitation Act.**

 **Architect of Record initial here that the above information is accurate per certification statement within this application.**

**K. SPECIAL HOUSING NEEDS**

**# Special Housing Needs/Leasing Preferen**

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

- TRUE Elderly (as defined by the United States Fair Housing Act.)
- Persons with Disabilities (must meet the requirements of the Federal Americans with Disabilities Act) - Accessible Supportive Housing Pool only
- 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 and Unit Delivery Schedule (**Mandatory if tenants are displaced -**

**# Leasing Preferences**

a. Will leasing preference be given to applicants on a public housing waiting list and/or Section 8 waiting list? select \_\_\_\_\_

Organization which holds 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.....  FALSE  
(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:   
% of total Low Income Units

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

2020 Low-Income Housing Tax Credit Application For Reservation

K. SPECIAL HOUSING NEEDS

# 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

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

#### Section 8 New Construction Substantial Rehabilitation

#### Section 8 Moderate Rehabilitation

#### Section 8 Certificates

#### Section 8 Project Based Assistance

#### RD 515 Rental Assistance

#### Section 8 Vouchers

#### State Assistance

#### 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: 0

d. Number of units receiving assistance: \_\_\_\_\_
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 CATEG**

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		Avg Inc.
# of Units	% of Units	
0	0.00%	20% Area Median
0	0.00%	30% Area Median
0	0.00%	40% Area Median
30	20.00%	50% Area Median
0	0.00%	60% Area Median
0	0.00%	70% Area Median
0	0.00%	80% Area Median
120	80.00%	Market Units
150	100.00%	<b>Total</b>

Rent Levels		Avg Inc.
# of Units	% of Units	
0	0.00%	20% Area Median
0	0.00%	30% Area Median
0	0.00%	40% Area Median
30	20.00%	50% Area Median
0	0.00%	60% Area Median
0	0.00%	70% Area Median
0	0.00%	80% Area Median
120	80.00%	Market Units
150	100.00%	<b>Total</b>

- b. The development plans to utilize average income..... **FALSE**  
 If true, should the points based on the units assigned to the levels above **be waived** and therefore not required for co  
 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.

Architect of Record initial here that the information below is accurate per certification statement within this application.

	Unit Type (Select One)	Rent Target (Select One)	Number of Units	# of Units 504 compliant	Net Rentable Square Feet	Monthly Rent Per Unit	Total Monthly Rent
Mix 1	1 BR - 1 Bath	Market 100%	1	1	788.00	\$1,250.00	\$1,250
Mix 2	1 BR - 1 Bath	50% AMI	1	1	788.00	\$700.00	\$700
Mix 3	1 BR - 1 Bath	Market 100%	1	1	656.00	\$1,250.00	\$1,250
Mix 4	1 BR - 1 Bath	50% AMI	19	19	656.00	\$700.00	\$13,300
Mix 5	1 BR - 1 Bath	Market 100%	2	2	656.00	\$1,250.00	\$2,500
Mix 6	1 BR - 1 Bath	50% AMI	2	2	656.00	\$700.00	\$1,400
Mix 7	1 BR - 1 Bath	Market 100%	11	11	788.00	\$1,250.00	\$13,750
Mix 8	1 BR - 1 Bath	Market 100%	3	3	788.00	\$1,250.00	\$3,750
Mix 9	1 BR - 1 Bath	Market 100%	3	3	935.00	\$1,250.00	\$3,750
Mix 10	2 BR - 1.5 Bath	Market 100%	1	1	1037.00	\$1,450.00	\$1,450
Mix 11	2 BR - 1.5 Bath	Market 100%	27	27	1037.00	\$1,450.00	\$39,150
Mix 12	2 BR - 1.5 Bath	50% AMI	8	8	1037.00	\$830.00	\$6,640
Mix 13	2 BR - 1.5 Bath	Market 100%	3	3	1077.00	\$1,450.00	\$4,350
Mix 14	2 BR - 2 Bath	Market 100%	24	24	1076.00	\$1,550.00	\$37,200
Mix 15	2 BR - 1.5 Bath	Market 100%	28	28	1174.00	\$1,450.00	\$40,600
Mix 16	2 BR - 1.5 Bath	Market 100%	16	16	1178.00	\$1,450.00	\$23,200

**L. UNIT DETAILS**

Mix 17							\$0
Mix 18							\$0
Mix 19							\$0
Mix 20							\$0
Mix 21							\$0
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
Mix 33							\$0
Mix 34							\$0
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
Mix 51							\$0
Mix 52							\$0
Mix 53							\$0
Mix 54							\$0
Mix 55							\$0
Mix 56							\$0
Mix 57							\$0
Mix 58							\$0
Mix 59							\$0
Mix 60							\$0
Mix 61							\$0
Mix 62							\$0
Mix 63							\$0
Mix 64							\$0
Mix 65							\$0
Mix 66							\$0
Mix 67							\$0
Mix 68							\$0
Mix 69							\$0
Mix 70							\$0
Mix 71							\$0
Mix 72							\$0



**L. UNIT DETAILS**

Mix 73							\$0
Mix 74							\$0
Mix 75							\$0
Mix 76							\$0
Mix 77							\$0
Mix 78							\$0
Mix 79							\$0
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>			150	0			\$194,240

<b>Total</b>	<b>150</b>	<b>Net Rentable SF: TC Units</b>	<b>22,860.00</b>
<b>Units</b>		<b>MKT Units</b>	<b>126,404.00</b>
		<b>Total NR SF:</b>	<b>149,264.00</b>

**Floor Space Fraction (to 7 decimals) 15.31515%**

L. UNIT DETAILS

1. Set-Aside Election: **UNITS SELECTED IN INCOME AND RENT DETERMINE POINTS FOR THE BONUS POINT CATEG**

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			Avg Inc.
# of Units	% of Units		
0	0.00%	20% Area Median	
0	0.00%	30% Area Median	
0	0.00%	40% Area Median	
30	20.00%	50% Area Median	
0	0.00%	60% Area Median	
0	0.00%	70% Area Median	
0	0.00%	80% Area Median	
120	80.00%	Market Units	
150	100.00%	<b>Total</b>	

Rent Levels			Avg Inc.
# of Units	% of Units		
0	0.00%	20% Area Median	
0	0.00%	30% Area Median	
0	0.00%	40% Area Median	
30	20.00%	50% Area Median	
0	0.00%	60% Area Median	
0	0.00%	70% Area Median	
0	0.00%	80% Area Median	
120	80.00%	Market Units	
150	100.00%	<b>Total</b>	

- b. The development plans to utilize average income..... FALSE  
 If true, should the points based on the units assigned to the levels above **be waived** and therefore not required for co  
 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.


 Architect of Record initial here that the information below is accurate per certification statement within this application.

	Unit Type (Select One)	Rent Target (Select One)	Number of Units	# of Units 504 compliant	Net Rentable Square Feet	Monthly Rent Per Unit	Total Monthly Rent
Mix 1	1 BR - 1 Bath	Market 100%	1	1	788.00	\$1,250.00	\$1,250
Mix 2	1 BR - 1 Bath	50% AMI	1	1	788.00	\$700.00	\$700
Mix 3	1 BR - 1 Bath	Market 100%	1	1	656.00	\$1,250.00	\$1,250
Mix 4	1 BR - 1 Bath	50% AMI	19	19	656.00	\$700.00	\$13,300
Mix 5	1 BR - 1 Bath	Market 100%	2	2	656.00	\$1,250.00	\$2,500
Mix 6	1 BR - 1 Bath	50% AMI	2	2	656.00	\$700.00	\$1,400
Mix 7	1 BR - 1 Bath	Market 100%	11	11	788.00	\$1,250.00	\$13,750
Mix 8	1 BR - 1 Bath	Market 100%	3	3	788.00	\$1,250.00	\$3,750
Mix 9	1 BR - 1 Bath	Market 100%	3	3	935.00	\$1,250.00	\$3,750
Mix 10	2 BR - 1.5 Bath	Market 100%	1	1	1037.00	\$1,450.00	\$1,450
Mix 11	2 BR - 1.5 Bath	Market 100%	27	27	1037.00	\$1,450.00	\$39,150
Mix 12	2 BR - 1.5 Bath	50% AMI	8	8	1037.00	\$830.00	\$6,640
Mix 13	2 BR - 1.5 Bath	Market 100%	3	3	1077.00	\$1,450.00	\$4,350
Mix 14	2 BR - 2 Bath	Market 100%	24	24	1076.00	\$1,550.00	\$37,200
Mix 15	2 BR - 1.5 Bath	Market 100%	28	28	1174.00	\$1,450.00	\$40,600
Mix 16	2 BR - 1.5 Bath	Market 100%	16	16	1178.00	\$1,450.00	\$23,200

L. UNIT DETAILS

Mix 17										\$0
Mix 18										\$0
Mix 19										\$0
Mix 20										\$0
Mix 21										\$0
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
Mix 33										\$0
Mix 34										\$0
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
Mix 51										\$0
Mix 52										\$0
Mix 53										\$0
Mix 54										\$0
Mix 55										\$0
Mix 56										\$0
Mix 57										\$0
Mix 58										\$0
Mix 59										\$0
Mix 60										\$0
Mix 61										\$0
Mix 62										\$0
Mix 63										\$0
Mix 64										\$0
Mix 65										\$0
Mix 66										\$0
Mix 67										\$0
Mix 68										\$0
Mix 69										\$0
Mix 70										\$0
Mix 71										\$0
Mix 72										\$0

**L. UNIT DETAILS**

Mix 73									\$0
Mix 74									\$0
Mix 75									\$0
Mix 76									\$0
Mix 77									\$0
Mix 78									\$0
Mix 79									\$0
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>			150		0				\$194,240

<b>Total Units</b>	<b>150</b>	<b>Net Rentable SF: TC Units</b>	<b>22,860.00</b>
		<b>MKT Units</b>	<b>126,404.00</b>
		<b>Total NR SF:</b>	<b>149,264.00</b>

<b>Floor Space Fraction (to 7 decimals)</b>	<b>15.31515%</b>
---	------------------

**2020 Low-Income Housing Tax Credit Application For Reservation**

**M. OPERATING EXPENSES**

**Administrative:**

Use Whole Numbers Only!

1. Advertising/Marketing		\$7,500
2. Office Salaries		\$25,000
3. Office Supplies		\$5,000
4. Office/Model Apartment	(type _____ )	\$0
5. Management Fee		\$104,159
<u>4.75%</u> of EGI	<u>\$694.39</u> Per Unit	
6. Manager Salaries		\$105,000
7. Staff Unit (s)	(type _____ )	\$0
8. Legal		\$5,000
9. Auditing		\$20,000
## Bookkeeping/Accounting Fees		\$0
## Telephone & Answering Service		\$2,500
## Tax Credit Monitoring Fee		\$2,500
## Miscellaneous Administrative		
<b>Total Administrative</b>		<b>\$276,659</b>

**Utilities**

## Fuel Oil		\$0
## Electricity		\$23,000
## Water		\$75,000
## Gas		\$0
## Sewer		\$15,000
<b>Total Utility</b>		<b>\$113,000</b>

**Operating:**

## Janitor/Cleaning Payroll		\$32,500
## Janitor/Cleaning Supplies		\$7,500
## Janitor/Cleaning Contract		\$0
## Exterminating		\$5,000
## Trash Removal		\$11,000
## Security Payroll/Contract		\$0
## Grounds Payroll		\$0
## Grounds Supplies		\$0
## Grounds Contract		\$20,000
## Maintenance/Repairs Payroll		\$45,000
## Repairs/Material		\$28,000
## Repairs Contract		\$7,000
## Elevator Maintenance/Contract		\$12,000
## Heating/Cooling Repairs & Maintenance		\$12,000
## Pool Maintenance/Contract/Staff		\$0
## Snow Removal		\$2,000
## Decorating/Payroll/Contract		\$3,000
## Decorating Supplies		\$1,000
## Miscellaneous		\$22,500
<b>Totals Operating &amp; Maintenance</b>		<b>\$208,500</b>

**2020 Low-Income Housing Tax Credit Application For Reservation**

**M. OPERATING EXPENSES**

**Taxes & Insurance**

## Real Estate Taxes	\$150,000
## Payroll Taxes	\$13,000
## Miscellaneous Taxes/Licenses/Permits	\$1,800
## Property & Liability Insurance	\$40,000
## Fidelity Bond	\$400
## Workman's Compensation	\$600
## Health Insurance & Employee Benefits	\$5,000
## Other Insurance	\$0
<b>Total Taxes &amp; Insurance</b>	<b>\$210,800</b>

<b>Total Operating Expense</b>	<b>\$808,959</b>
--------------------------------	------------------

<b>Total Operating Expenses Per Unit</b>	<b>\$5,393</b>	<b>C. Total Operating Expenses as % of</b>	<b>36.89%</b>
--	----------------	--	---------------

<b>Replacement Reserves (Total # Units X \$300 or \$250 New Const. Elderly Mini</b>	<b>\$37,500</b>
---	-----------------

<b>Total Expenses</b>	<b>\$846,459</b>
-----------------------	------------------

**ACTION:** Provide Documentation of Operating Budget at **Tab R** if applicable.

2020 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		
b. Site Acquisition		
c. Zoning Approval		
d. Site Plan Approval		
<b>2. Financing</b>		
<b>a. Construction Loan</b>		
i. Loan Application	7/17/20	Brian Staub
ii. Conditional Commitment		
iii. Firm Commitment		
<b>b. Permanent Loan - First Lien</b>		
i. Loan Application	7/17/20	Brian Staub
ii. Conditional Commitment		
iii. Firm Commitment		
<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>	9/1/20	Brian Staub
<b>3. IRS Approval of Nonprofit Status</b>		
<b>4. Closing and Transfer of Property to Owner</b>		
<b>5. Plans and Specifications, Working Drawings</b>		
<b>6. Building Permit Issued by Local Government</b>	11/1/20	Scott Troutman
<b>7. Start Construction</b>	11/15/20	Scott Troutman
<b>8. Begin Lease-up</b>	4/1/21	Chris McKee
<b>9. Complete Construction</b>	12/15/21	Scott Troutman
<b>10. Complete Lease-Up</b>	5/1/22	Chris McKee
<b>11. Credit Placed in Service Date</b>	7/1/22	Brian Staub

**2020 Low-Income Housing Tax Credit Application For Reservation**

**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.

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>1. Contractor Cost</b>				
a. Unit Structures (New)	13,050,000	0	13,050,000	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>	13,050,000	0	13,050,000	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	205,000	0	205,000	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	360,000	0	360,000	0
o. Site Work	1,750,000	0	1,750,000	0
p. Other Site work	0	0	0	0
<b>Total Land Improvements</b>	2,315,000	0	2,315,000	0
<b>Total Structure and Land</b>	15,365,000	0	15,365,000	0
q. General Requirements	600,000	0	600,000	0
r. Builder's Overhead ( 2.0% Contract)	310,000	0	310,000	0
s. Builder's Profit ( 4.0% Contract)	620,000	0	620,000	0
t. Bonds	0	0	0	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: Energy Star	60,000	0	60,000	0
y. Other 2:	0	0	0	0
z. Other 3:	0	0	0	0
<b>Contractor Costs</b>	<b>\$16,955,000</b>	<b>\$0</b>	<b>\$16,955,000</b>	<b>\$0</b>



2020 Low-Income Housing Tax Credit Application For Reservation

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	30,000	0	30,000	0
b. Architecture/Engineering Design Fee \$3,100 /Unit)	465,000	0	465,000	0
c. Architecture Supervision Fee \$333 /Unit)	50,000	0	50,000	0
d. Tap Fees	225,000	0	225,000	0
e. Environmental	5,000	0	5,000	0
f. Soil Borings	20,000	0	20,000	0
g. Green Building (Earthcraft, LEED, etc.)	0	0	0	0
h. Appraisal	5,000	0	5,000	0
i. Market Study	6,000	0	6,000	0
j. Site Engineering / Survey	30,000	0	30,000	0
k. Construction/Development Mgt	0	0	0	0
l. Structural/Mechanical Study	0	0	0	0
m. Construction Loan Origination Fee	0	0	0	0
n. Construction Interest ( 0.0% fo 0 months)	597,049	0	447,787	0
o. Taxes During Construction	15,000	0	0	0
p. Insurance During Construction	45,000	0	20,000	0
q. Permanent Loan Fee ( 0.0% )	199,063	0	0	0
r. Other Permanent Loan Fees	106,750	0	0	0
s. Letter of Credit	15,000	0	0	0
t. Cost Certification Fee	0	0	0	0
u. Accounting	25,000	0	25,000	0
v. Title and Recording	70,000	0	0	0
w. Legal Fees for Closing	125,000	0	50,000	0
x. Mortgage Banker	50,000	0	0	0
y. Tax Credit Fee	25,000			
z. Tenant Relocation	0	0	0	0
aa. Fixtures, Furnitures and Equipment	150,000	0	75,000	0
ab. Organization Costs	0	0	0	0
ac. Operating Reserve	0	0	0	0
ad. Contingency	50,000	0	0	0
ae. Security	0	0	0	0

**2020 Low-Income Housing Tax Credit Application For Reservation**

---

**O. PROJECT BUDGET - OWNER COSTS**

---

af. Utilities	80,000	0	80,000	0
---------------	--------	---	--------	---

**2020 Low-Income Housing Tax Credit Application For Reservation**

**O. PROJECT BUDGET - OWNER COSTS**

(1) Other* specify	Hard Cost Contingency	750,000	0	750,000	0
(2) Other* specify	Lender/Third Party Repd	40,000	0	20,000	0
(3) Other* specify	Lease Up/Marketing	100,000	0	0	0
(4) Other* specify	Out of Balance Fee	50,000	0	0	0
(5) Other* specify		0	0	0	0
(6) Other* specify		0	0	0	0
(7) Other* specify		0	0	0	0
(8) Other* specify		0	0	0	0
(9) Other* specify		0	0	0	0
### Other* specify		0	0	0	0
Owner Costs Subtotal (Sum 2A..2(10))		\$3,328,862	\$0	\$2,303,787	\$0
<b>Subtotal 1 + 2</b> (Owner + Contractor Costs)		\$20,283,862	\$0	\$19,258,787	\$0
<b>3. Developer's Fees</b>		0	0	0	0
Action: Provide Developer Fee Agreement (Tab A)					
<b>4. Owner's Acquisition Costs</b>					
Land		2,100,000			
Existing Improvements		0	0		
Subtotal 4:		\$2,100,000	\$0		
<b>5. Total Development Costs</b>					
Subtotal 1+2+3+4:		\$22,383,862	\$0	\$19,258,787	\$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:** \$2,220,709

Proposed Development's Cost per Sq Foot \$89 **Meets Limits**  
 Applicable Cost Limit by Square Foot: \$218

**2020 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>	22,383,862	0	19,258,787	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	19,258,787	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
<b>Total Adjusted Eligible basis</b>	19,258,787	0

**5. Applicable Fraction**

15.31515%	15.31515%	15.31515%
-----------	-----------	-----------

**6. Total Qualified Basis**

(Eligible Basis x Applicable Fraction)

0	2,949,512	0
---	-----------	---

**7. Applicable Percentage**

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

0.00%	3.08%	9.00%
-------	-------	-------

**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	\$90,845	\$0
\$90,845 Combined 30% & 70% P. V. Credit		

**2020 Low-Income Housing Tax Credit Application For Reservation**

**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.	VHDA	07/22/20		\$21,350,000	Sean Campbell
2.					
3.					
Total Construction Funding:				\$21,350,000	

**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	<i>(Whole Numbers only)</i>		Interest Rate of Loan	Amortization Period IN YEARS	Term of Loan (years)
				Amount of Funds	Annual Debt Service Cost			
1.	VHDA Tax Exempt	7/22/20		\$17,400,000	\$934,490	3.75%	32.00	32.00
2.	VHDA REACH Funds	7/22/20		\$3,950,000	\$190,874	2.95%	32.00	32.00
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
Total Permanent Funding:				\$21,350,000	\$1,125,364			

**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.					

2020 Low-Income Housing Tax Credit Application For Reservation

---

**Q. SOURCES OF FUNDS**

---

Total Permanent Grants:

**Q. SOURCES OF FUNDS**

**4. Subsidized Funding**

	Source of Funds	Date of Commitment	Amount of Funds
1.			
2.			
3.			
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	#####
b.	RD 515	\$0
c.	Section 221(d)(3)	\$0
d.	Section 312	\$0
e.	Section 236	\$0
f.	VHDA SPARC/REACH	\$3,950,000
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)	\$0
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: **81.47%**

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**



**2020 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	\$1,033,862	
ii. Contributed Land/Building	\$0	
iii. Deferred Developer Fee	\$0	(Note: Deferred Developer Fee cannot be negative.)
iv. Other:	\$0	

**ACTION:** If Deferred Developer Fee is greater than 50% of overall Developer Fee, provide a cash flow statement showing payoff within 15 years at **TAB A**.

**Equity Total** \$1,033,862

**2. Equity Gap Calculation**

a. Total Development Cost	\$22,383,862
b. Total of Permanent Funding, Grants and Equity	- <u>\$22,383,862</u>
c. Equity Gap	\$0
d. Developer Equity	- <u>\$0</u>
e. Equity gap to be funded with low-income tax credit proceeds	\$0

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

a. Actual or Anticipated Name of Syndicator: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

b. Syndication Equity

i. Anticipated Annual Credits	\$90,845.00
ii. Equity Dollars Per Credit (e.g., \$0.85 per dollar of credit)	\$0.000
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	\$90,836
vi. Total to be paid by anticipated users of credit (e.g., limited partners)	\$0

c. Syndication: Private  
 d. Investors: Individual

**4. Net Syndication Amount**

Which will be used to pay for Total Development Costs \$0

**5. Net Equity Factor**

Must be equal to or greater than 85% 0.0000000000%

**2020 Low-Income Housing Tax Credit Application For Reservation**

**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>\$22,383,862</u>
2. Less Total of Permanent Funding, Grants and Equity	-	<u><u>\$22,383,862</u></u>
3. Equals Equity Gap		<u>\$0</u>
4. Divided by Net Equity Factor (Percent of 10-year credit expected to be raised as equity investment)		<u><u>0.0000000000%</u></u>
5. Equals Ten-Year Credit Amount Needed to Fund Gap		<u>#DIV/0!</u>
Divided by ten years		<u><u>10</u></u>
6. Equals Annual Tax Credit Required to Fund the Equity Gap		<u>#DIV/0!</u>
7. Maximum Allowable Credit Amount (from Eligible Basis Calculation)		<u>\$90,845</u>
8. Requested Credit Amount	For 30% PV Credit:	<u>\$90,845</u>
	For 70% PV Credit:	<u>\$0</u>
Credit per LI Units	<u>\$3,028.1667</u>	<b>Combined 30% &amp; 70% PV Credit Requested</b>
Credit per LI Bedroom	<u>\$2,390.6579</u>	

#DIV/0!

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	\$22,040
Plus Other Income Source (list) <u>Pet Fees, late rents, etc.</u>	\$450
Equals Total Monthly Income:	<u>\$22,490</u>
Twelve Months	x12
Equals Annual Gross Potential Income	\$269,880
Less Vacancy Allowance <u>7.0%</u>	<u>\$18,892</u>
<b>Equals Annual Effective Gross Income (EGI) - Low Income Units</b>	<u><u>\$250,988</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:	\$172,200
Plus Other Income Source (list) <u>Pet fees, late rents, etc.</u>	\$1,800
Equals Total Monthly Income:	<u>\$174,000</u>
Twelve Months	x12
Equals Annual Gross Potential Income	\$2,088,000
Less Vacancy Allowance <u>7.0%</u>	<u>\$146,160</u>
<b>Equals Annual Effective Gross Income (EGI) - Market Rate Units</b>	<u><u>\$1,941,840</u></u>

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

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

a. Annual EGI Low-Income Units	<u>\$250,988</u>
b. Annual EGI Market Units	<u>\$1,941,840</u>
c. Total Effective Gross Income	<u>\$2,192,828</u>
d. Total Expenses	<u>\$846,459</u>
e. Net Operating Income	<u>\$1,346,369</u>
f. Total Annual Debt Service	<u>\$1,125,364</u>
g. Cash Flow Available for Distribution	<u>\$221,005</u>

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>	2,192,828	2,236,685	2,281,419	2,327,047	2,373,588
<b>Less Oper. Expenses</b>	846,459	871,853	898,008	924,949	952,697
<b>Net Income</b>	1,346,369	1,364,832	1,383,410	1,402,098	1,420,891
<b>Less Debt Service</b>	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
<b>Cash Flow</b>	221,005	239,468	258,046	276,734	295,527
<b>Debt Coverage Ratio</b>	1.20	1.21	1.23	1.25	1.26

	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Eff. Gross Income</b>	2,421,060	2,469,481	2,518,871	2,569,248	2,620,633
<b>Less Oper. Expenses</b>	981,278	1,010,716	1,041,038	1,072,269	1,104,437
<b>Net Income</b>	1,439,782	1,458,765	1,477,833	1,496,979	1,516,196
<b>Less Debt Service</b>	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
<b>Cash Flow</b>	314,418	333,401	352,469	371,615	390,832
<b>Debt Coverage Ratio</b>	1.28	1.30	1.31	1.33	1.35

	Year 11	Year 12	Year 13	Year 14	Year 15
<b>Eff. Gross Income</b>	2,673,046	2,726,506	2,781,037	2,836,657	2,893,391
<b>Less Oper. Expenses</b>	1,137,570	1,171,697	1,206,848	1,243,054	1,280,345
<b>Net Income</b>	1,535,475	1,554,809	1,574,188	1,593,604	1,613,045
<b>Less Debt Service</b>	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
<b>Cash Flow</b>	410,111	429,445	448,824	468,240	487,681
<b>Debt Coverage Ratio</b>	1.36	1.38	1.40	1.42	1.43

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: 1

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.		30	120	1915 Pocahontas Trail		Williamsburg	VA	23185				\$0	\$2,949,512	01/15/22	3.08%	\$90,845				\$0	
2.												\$0				\$0				\$0	
3.												\$0				\$0				\$0	
4.												\$0				\$0				\$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	
		30	120																		
				Totals from all buildings					\$0				\$2,949,512				\$0				\$0
									\$0				\$90,845				\$0				\$0

Number of BINS: 1

**V. STATEMENT OF OWNER**

---

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.

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 Williamsburg Senior, L.P.  
by its general partner  
Williamsburg Senior GP, L.L.C.


By: \_\_\_\_\_  
Its: Manager  
(Title)

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 Williamsburg Senior, L.P.  
by its general partner  
Williamsburg Senior GP, L.L.C.

By:   
Its: Manager  
(Title)



**2020 Low-Income Housing Tax Credit Application For Reservation**

---

**V. STATEMENT OF ARCHITECT**

---

The architect signing this document is certifying that the development plans and specifications incorporate all VHDA Minimum Design and Construction Requirements (MDCR), selected LIHTC enhancements and amenities, applicable building codes and accessibility requirements.

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 Architect:	Craig C Miller
Virginia License#:	0401011907
Architecture Firm or Company:	Cox, Kliewer & Company, P.C.

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

Its: Architect, Partner  
(Title)

Initials by Architect are also required on the following Tabs: Enhancement, Special Housing Needs and Unit Details


**V. STATEMENT OF ARCHITECT**

---

The architect signing this document is certifying that the development plans and specifications incorporate all VHDA Minimum Design and Construction Requirements (MDCR), selected LIHTC enhancements and amenities, applicable building codes and accessibility requirements.

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 Architect:	<u>Craig C Miller</u>
Virginia License#:	<u>0401011907</u>
Architecture Firm or Company:	<u>Cox, Kliewer &amp; Company, P.C.</u>

By:   
Its: Architect, Partner (Title)

Initials by Architect are also required on the following Tabs: Enhancement, Special Housing Needs and Unit Details

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 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 when appropriate, which may change the final score.

**MANDATORY ITEMS:**

	Included		Score
a. Signed, completed application with attached tabs in PDF format	Y	Y or N	0
b. Active Excel copy of application	Y	Y or N	0
c. Partnership agreement	Y	Y or N	0
d. SCC Certification	Y	Y or N	0
e. Previous participation form	Y	Y or N	0
f. Site control document	Y	Y or N	0
g. RESNET Certification	Y	Y or N	0
h. Attorney's opinion	Y	Y or N	0
i. Nonprofit questionnaire (if applicable)	Y	Y, N, N/A	0
j. Appraisal	Y	Y or N	0
k. Zoning document	Y	Y or N	0
l. Universal Design Plans	Y	Y or N	0
m. List of LIHTC Developments (Schedule A)	Y	Y or N	0
Total:			<u>0.00</u>

**1. READINESS:**

a. VHDA notification letter to CEO (via Locality Notification Information Application)	Y	0 or -50	0.00
b. Local CEO Opposition Letter	N	0 or -25	0.00
c. Plan of development	N	0 or 40	0.00
d. Location in a revitalization area based on Qualified Census Tract	N	0 or 10	0.00
e. Location in a revitalization area with resolution	N	0 or 15	0.00
f. Location in a Opportunity Zone	N	0 or 15	0.00
Total:			<u>0.00</u>

**2. HOUSING NEEDS CHARACTERISTICS:**

a. Sec 8 or PHA waiting list preference	N	0 or up to 5	0.00
b. Existing RD, HUD Section 8 or 236 program	N	0 or 20	0.00
c. Subsidized funding commitments	0.00%	Up to 40	0.00
d. Tax abatement on increase of property's value	N	0 or 5	0.00
e. New project based rental subsidy (HUD or RD)	N	0 or 10	0.00
f. Census tract with <12% poverty rate	10%	0, 20, 25 or 30	25.00
g. Development listed on the Rural Development Rehab Priority List	N	0 or 15	0.00
h. Dev. located in area with little or no increase in rent burdened population	N	Up to -20	0.00
i. Dev. located in area with increasing rent burdened population	Y	Up to 20	20.00
Total:			<u>45.00</u>

**3. DEVELOPMENT CHARACTERISTICS:**

a. Amenities (See calculations below)			0.00
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	N	0 or 15	0.00
e. Proximity to public transportation (within Northern VA or Tidewater)	Y10	0, 10 or 20	10.00
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	Y	up to 20	20.00
i. Historic Structure	N	0 or 5	0.00
Total:			<u>30.00</u>

**4. TENANT POPULATION CHARACTERISTICS:**

Locality AMI	State AMI
\$79,300	\$57,400

a. Less than or equal to 20% of units having 1 or less bedrooms	N	0 or 15	0.00
b. <plus> Percent of Low Income units with 3 or more bedrooms	0.00%	Up to 15	0.00

**2020 Low-Income Housing Tax Credit Application For Reservation**

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	100.00%	Up to 50	50.00
f. Units with rents at or below 50% rented to tenants at or below 60% of AMI	100.00%	Up to 25	0.00
or g. Units in LI Jurisdictions with rents <= 50% rented to tenants with <= 60% of AMI	100.00%	Up to 50	0.00
Total:			<u>50.00</u>

**5. SPONSOR CHARACTERISTICS:**

a. Developer experience - 3 developments with 3 x units or 6 developments with 1 x unit	Y	0 or 50	50.00
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	N	0 or 10	0.00
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
Total:			<u>50.00</u>

**6. EFFICIENT USE OF RESOURCES:**

a. Credit per unit	Up to 200	168.52
b. Cost per unit	Up to 100	43.98
Total:		<u>212.50</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
Total:			<u>0.00</u>

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

**TOTAL SCORE: 387.50**

**Amenities:**

All units have:	Max Pts	Score
a. Community Room	5	0.00
b. Exterior walls constructed with brick and other low maintenance material	25	0.00
c. Sub metered water expense	5	0.00
d. Watersense labeled faucets, toilets and showerheads	3	0.00
e. Infrastructure for high speed internet/broadband	1	0.00
f. Free WiFi Access in community room	4	0.00
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>0.00</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>

**Total amenities: 0.00**

X.

## Development Summary

**Summary Information**

**2020 Low-Income Housing Tax Credit Application For Reservation**

<b>Deal Name:</b>	<b>The Arbors at Williamsburg</b>
-------------------	-----------------------------------

<b>Cycle Type:</b> 4% Tax Exempt Bonds Credits	<b>Requested Credit Amount:</b> \$90,845
<b>Allocation Type:</b> 0	<b>Jurisdiction:</b> York County
<b>Total Units:</b> 150	<b>Population Target:</b> Elderly
<b>Total LI Units:</b> 30	
<b>Project Gross Sq Ft:</b> 227,115.00	<b>Owner Contact:</b> Brian Staub
<b>Green Certified?</b> FALSE	

**Total Score**  
**387.50**

Source of Funds	Amount	Per Unit	Per Sq Ft	Annual Debt Service
Permanent Financing	\$21,350,000	\$142,333	\$94	\$1,125,364

Uses of Funds - Actual Costs				
Type of Uses	Amount	Per Unit	Sq Ft	% of TDC
Improvements	\$15,365,000	\$102,433	\$68	68.64%
General Req/Overhead/Profit	\$1,530,000	\$10,200	\$7	6.84%
Other Contract Costs	\$60,000	\$400	\$0	0.27%
Owner Costs	\$3,328,862	\$22,192	\$15	14.87%
Acquisition	\$2,100,000	\$14,000	\$9	9.38%
Developer Fee	\$0	\$0	\$0	0.00%
<b>Total Uses</b>	<b>\$22,383,862</b>	<b>\$149,226</b>		

Total Development Costs	
Total Improvements	\$20,283,862
Land Acquisition	\$2,100,000
Developer Fee	\$0
<b>Total Development Costs</b>	<b>\$22,383,862</b>

Income	
Gross Potential Income - LI Units	\$269,880
Gross Potential Income - Mkt Unit:	\$2,088,000
Subtotal	\$2,357,880
Less Vacancy %	7.00%
	\$165,052
<b>Effective Gross Income</b>	<b>\$2,192,828</b>

**Proposed Cost Limit/Sq Ft:** \$89  
**Applicable Cost Limit/Sq Ft:** \$218

**Rental Assistance?** TRUE

Unit Breakdown	
Supp Hsg	0
# of Eff	0
# of 1BR	43
# of 2BR	107
# of 3BR	0
# of 4+ BR	0
<b>Total Units</b>	<b>150</b>

Expenses		
Category	Total	Per Unit
Administrative	\$276,659	\$1,844
Utilities	\$113,000	\$753
Operating & Maintenance	\$208,500	\$1,390
Taxes & Insurance	\$210,800	\$1,405
<b>Total Operating Expenses</b>	<b>\$808,959</b>	<b>\$5,393</b>
Replacement Reserves	\$37,500	\$250
<b>Total Expenses</b>	<b>\$846,459</b>	<b>\$5,643</b>

	Income Levels	Rent Levels
	# of Units	# of Units
<=30% AMI	0	0
40% AMI	0	0
50% AMI	30	30
60% AMI	0	0
>60% AMI	0	0
<b>Market</b>	<b>120</b>	<b>120</b>

Cash Flow	
EGI	\$2,192,828
Total Expenses	\$846,459
<b>Net Income</b>	<b>\$1,346,369</b>
Debt Service	\$1,125,364
<b>Debt Coverage Ratio (YR1):</b>	<b>1.20</b>

**Income Averaging?** FALSE

**Extended Use Restriction?** 30

2020 Low-Income Housing Tax Credit Application For Reservation

\$/SF = **\$94.25** Credits/SF = **2.30552** Const \$/unit = **\$113,033.3333**

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

**12000**  
**500**  
**1**

**500**  
**1**

	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	1,245.17	1,501.19	0.00	0.00	0.00
NUMBER OF UNITS	0	0	22	8	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	203,760	273,803	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	203,760	273,803	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0
COST PARAMETER	0	0	203,760	273,803	0	0	0
PROJECT COST PER UNIT	0	0	117,361	141,491	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	17,736	23,833	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	17,736	23,833	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	17,736	23,833	0	0	0
PROJECT CREDIT PER UNIT	0	0	2,871	3,461	0	0	0
COST PER UNIT POINTS	0.00	0.00	31.10	12.89	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	0.00	122.93	45.59	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	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	0	0	0	0	0	0	0
PROJECT COST PER UNIT	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	0	0	0	0	0	0
PROJECT CREDIT PER UNIT	0	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	0.00
CREDIT PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

TOTAL COST PER UNIT POINTS **43.98**

TOTAL CREDIT PER UNIT POINTS **168.52**

**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	203,760	273,803	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>203,760</b>	<b>273,803</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	17,736	23,833	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>17,736</b>	<b>23,833</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	203,760	273,803	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>203,760</b>	<b>273,803</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	17,736	23,833	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>17,736</b>	<b>23,833</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	0	0	0	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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

2020 Low-Income Housing Tax Credit Application For Reservation

\$/SF = **\$94.25** Credits/SF = **2.30552** Const \$/unit = **\$113,033.33**

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

**12000**  
**500**  
**1**

**500**  
**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	1,245.17	1,501.19	0.00	0.00	0.00
NUMBER OF UNITS	0	0	22	8	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	203,760	273,803	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	203,760	273,803	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0
COST PARAMETER	0	0	203,760	273,803	0	0	0
PROJECT COST PER UNIT	0	0	117,361	141,491	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	17,736	23,833	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	17,736	23,833	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	17,736	23,833	0	0	0
PROJECT CREDIT PER UNIT	0	0	2,871	3,461	0	0	0
COST PER UNIT POINTS	0.00	0.00	31.10	12.89	0.00	0.00	0.00
CREDIT PER UNIT POINTS	0.00	0.00	122.93	45.59	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	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NUMBER OF UNITS	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS=>50,000)	0	0	0	0	0	0	0	0
PARAMETER-(COSTS<50,000)	0	0	0	0	0	0	0	0
COST PARAMETER	0	0	0	0	0	0	0	0
PROJECT COST PER UNIT	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS<35,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS=>50,000)	0	0	0	0	0	0	0	0
PARAMETER-(CREDITS<50,000)	0	0	0	0	0	0	0	0
CREDIT PARAMETER	0	0	0	0	0	0	0	0
PROJECT CREDIT PER UNIT	0	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	0.00
CREDIT PER UNIT POINTS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

TOTAL COST PER UNIT POINTS **43.98**

TOTAL CREDIT PER UNIT POINTS **168.52**



**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	203,760	273,803	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>203,760</b>	<b>273,803</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	17,736	23,833	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>17,736</b>	<b>23,833</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	203,760	273,803	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>203,760</b>	<b>273,803</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	17,736	23,833	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>17,736</b>	<b>23,833</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	0	0	0	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>0</b>	<b>0</b>	<b>0</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	0	0	0	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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

A

# Partnership or Operating Agreement

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

**AGREEMENT OF LIMITED PARTNERSHIP  
OF  
WILLIAMSBURG SENIOR, LP**

**THIS AGREEMENT OF LIMITED PARTNERSHIP**, made as of the 10<sup>th</sup> day of September, 2020, by and among the undersigned partners, who hereby organize **WILLIAMSBURG SENIOR, LP**, a Virginia limited partnership (the “Partnership”) pursuant to the Revised Uniform Limited Partnership Act of Virginia upon the following terms and conditions.

**WITNESSETH:**

**WHEREAS**, the undersigned partners desire to organize the Partnership for the purpose developing, constructing and owning an affordable apartment project for residents 62 years of age or older located in York County, Virginia to be financed in part by low income housing tax credits pursuant to Section 42 of the Federal Internal Revenue Code and by tax-exempt bonds.

**NOW, THEREFORE**, the Partners hereby agree as follows:

**1. NAME; PLACE OF BUSINESS AND SPECIFIED OFFICE; REGISTERED AGENT; RECORDS.**

The name of the Partnership is **WILLIAMSBURG SENIOR, LP**, and the post office address of its principal place of business and specified office is 308 35th Street, Suite 101, in the City of Virginia Beach, Virginia 23451. The name of the registered agent is Timothy O. Trant II, who is a resident of the Commonwealth of Virginia and a member of the Virginia State Bar. The registered agent’s post office address is 11815 Fountain Way, Suite 400, Newport News, Virginia 23606. The Partnership shall keep the following records at its specified office: (i) a current list of the full name and last known business address of each Partner set forth in alphabetical order, (ii) a copy of the Certificate of Limited Partnership and all Certificates of Amendment thereto, together with executed copies of any powers of attorney pursuant to which any Certificate has been executed, (iii) copies of the Partnership’s federal, state, and local income tax returns and reports, if any, for the three most recent years, and (iv) copies of any then effective written Partnership Agreements and any financial statements of the Partnership for the three most recent years. Such records are subject to inspection and copying at the reasonable request, and at the expense, of any Partner during ordinary business hours.

**2. DEFINITIONS.**

The following terms used in this Agreement shall (unless otherwise expressly provided herein or unless the context otherwise requires) have the following respective meanings:

A. Act.

The Revised Uniform Limited Partnership Act of Virginia.

B. Affiliate or Affiliated Persons.

When used with reference to a specified person, (1) any person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified person, (2) any person that is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified person or of which the specified person is an officer, partner or trustee, or with respect to which the specified person serves in a similar capacity, (3) any person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified person or of which the specified person is directly or indirectly the owner of 10% or more of any class of equity securities or in which the specified person has a substantial beneficial interest and (4) any spouse or lineal descendant of the specified person.

C. Agreement.

This Agreement of Limited Partnership, as originally executed and as amended from time to time, as the context requires.

D. Capital Account.

As of any date, the aggregate of the Capital Contributions by a Partner or his predecessor in interest, increased by his distributive share of Taxable Income and of Gain from Sale, reduced by his distributive share of Taxable Loss and of Loss from Sale, and by the amount of any distributions of cash to him or by the Gross Asset Value of any property distributed to him. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts, make-up of deficit capital accounts upon liquidation, and allocations of tax items are intended to comply with Treasury Regulation Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with the Regulations.

E. Capital Calls.

The assessments for additional contributions described in Section 5C.

F. Capital Contributions.

With respect to any Partner, the amount of money (including any Capital Calls) and the initial Gross Asset Value of any property (other than money) contributed to the Partnership with respect to the Interest held by such Partner pursuant to the terms of this Agreement. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Partnership by the maker of the note shall not be included in the Capital Contribution of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

G. Code.

The Internal Revenue Code of 1986, as amended from time to time.

H. Credits.

Low income housing tax credits arising pursuant to Section 42 of the Federal Internal Revenue Code of 1986, as amended.

I. Gain or Loss from Sale.

Any gain or loss for federal income tax purposes resulting from the sale or other disposition of the Project not in the ordinary course of the Partnership's business.

J. General Partner.

Williamsburg Senior GP, LLC, a Virginia limited liability company, and such other person or firm as may become General Partner hereunder, or any successors appointed under this Agreement.

K. Gross Asset Value.

With respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(1) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset, as determined by the contributing Partner and the Partnership;

(2) The Gross Asset Value of all Partnership assets shall be adjusted to equal their respective gross fair market values, as determined by the Partners, as of the following times: (a) the acquisition of an additional interest in the Partnership by any new or existing Partner in exchange for more than a de minimis Capital Contribution; (b) the distribution by the Partnership to a Partner of more than a de minimis amount of property as consideration for an interest in the Partnership; and (c) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (a) and (b) above shall be made only if the Partners reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(3) The Gross Asset Value of any Partnership asset distributed to any Partner shall be the gross fair market value of such asset on the date of distribution; and

(4) The Gross Asset Values of partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant this Section 2J(4) to the extent the Partners determine that an adjustment pursuant to Section 2J(2) hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Section 2J(4). If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section 2J(1), Section 2J(2), or Section 2J(4) hereof, such Gross Asset Value shall thereafter be

adjusted by the depreciation taken into account with respect to such asset for purposes of computing Taxable Income or Taxable Loss.

L. Interest.

Generally, a Partner's Interest refers to his percentage set forth on Exhibit A. However, a Partner's Interest includes his Capital Account and percentage set forth on Exhibit A when used in the context of a Partner's ownership rights in the Partnership.

M. Limited Partner.

Collectively, the original Limited Partner and any persons who are admitted to the Partnership as additional or substituted Limited Partners.

N. Minimum Gain.

As of any date, the excess, if any, of the outstanding principal balance of any nonrecourse debt of the Partnership that is secured by an interest in the Project or any part thereof, over the adjusted basis of the Project to the Partnership.

O. Modified Negative Capital Account.

The deficit balance of a Capital Account, excluding the portion of the deficit that must be restored to the Partnership upon liquidation under Section 5E(7).

P. Net Cash from Operations.

For any taxable year, the excess of cash revenue from the operation of the Project (which may include proceeds from the sale of Partnership property in the ordinary course of business), interest income received during the year, and reserves set aside in prior years and no longer deemed necessary by the General Partner for the Partnership's business, over the sum of (1) development and operating expenses of the Partnership paid in cash during the year, (2) payments made in connection with any loan to the Partnership or any indebtedness secured by a lien on any portion of the Project, and (3) any reasonable reserves, as determined by the General Partner, for development and operating expenses, the repair, replacement or preservation during the current or subsequent years of any Partnership asset, or for contingencies and unanticipated obligations (including debt service).

Q. Net Proceeds from Refinancing.

Net cash realized by the Partnership from the refinancing of indebtedness of the Partnership, reduced by (1) all expenses related to the transactions, (2) the amount applied, at the sole discretion of the General Partner, toward the payment of any indebtedness of the Partnership, and (3) reasonable reserves to satisfy other obligations of the Partnership, as determined by the General Partner.

R. Net Proceeds from Sale.

Net cash realized by the Partnership from the sale, exchange, condemnation, or other disposition of all or substantially all of the Project or from policies of insurance payable as a result of damage to or destruction of, or defects of title to the Project (to the extent the proceeds exceed (1) the actual or estimated costs of repairing or replacing the Project or other assets damaged or destroyed or curing defects of title, plus all expenses related to the transactions, (2) the amount applied, at the sole discretion of the General Partner, toward the payment of any indebtedness of the Partnership, and (3) reasonable reserves to satisfy other obligations of the Partnership, as determined by the General Partner).

S. Partner.

Partners of all classes.

T. Project.

The property described in Section 3.

U. Taxable Income or Taxable Loss.

The income or loss of the Partnership for federal income tax purposes, including each item of income, gain, loss or deduction, but excluding Gain or Loss from Sale.

**3. BUSINESS OF THE PARTNERSHIP**

The business of the Partnership shall be developing, constructing and owning an affordable apartment project for residents 62 years of age or older located in York County, Virginia to be financed in part by Credits and by tax-exempt bonds, and engaging in any and all business activities related or incidental thereto

**4. TERM.**

The Partnership is formed on the date hereof and shall continue in perpetuity, unless sooner terminated in accordance with this Agreement.

**5. PARTNERS AND CAPITAL.**

A. General Partner; Capital Contributions.

The name and business address of each general partner is as follows:

Williamsburg Senior GP, LLC  
308 35th Street, Suite 101  
Virginia Beach, Virginia 23451

The Interest and Capital Contribution of each General Partner is as set forth on Exhibit A.

B. Limited Partner; Capital Contribution.

The Limited Partner, as a Capital Contribution, has contributed to the Partnership the amount set forth on Exhibit A. Upon the execution of the Agreement, the Limited Partner shall have the applicable Interest set forth on Exhibit A. The business address of the Limited Partner is as set forth on Exhibit A.

C. Additional Assessments.

The General Partner shall not have the right to require any Partner to make additional Capital Contributions.

D. Additional Provisions on Capital and Obligations of Partners.

(1) A Capital Account shall be established and maintained for each Partner. The Capital Account of a substituted Partner shall include his allocable portion of the Capital Account of the Partner whose Interest he acquired without regard to any basis adjustment under Section 754 of the Code.

(2) No Partner gives up any of his rights to be repaid his Capital Contributions in favor of any other Partner.

(3) No Partner shall be paid interest on his Capital Account.

(4) No Partner shall have the right to demand and receive property other than cash in return of his Capital Contributions.

(5) No Partner shall have the right to demand and receive the return of his Capital Contributions until the termination of the Partnership.

(6) The General Partner shall have no liability or responsibility for the repayment of the capital contributions of any Limited Partner.

(7) The liability of each Limited Partner for the losses, debts, liabilities and obligations of the Partnership shall be limited to his Capital Contributions, his share of additional capital for which he may be assessed, and his share of any undistributed profits of the Partnership.

**6. ALLOCATIONS AND DISTRIBUTIONS.**

A. Net Cash from Operations.

Net Cash from Operations for any year shall be allocated and distributed among the Partners in proportion to their respective Interests.

B. Taxable Income, Taxable Loss and Credits.

Taxable Income, Taxable Loss and Credits each year shall be allocated among the Partners in proportion to their respective Interests.



C. Mid-Year Transfers.

Unless otherwise agreed between the transferor and transferee, all Taxable Income or Taxable Loss for a Partnership year allocable to any Interest which has been transferred during the year shall be allocated between the transferor and transferee in the ratio of the number of days in the year before and after the effective date of the assignment without regard to the dates during the year on which income was earned, losses incurred, or distributions made.

D. Net Proceeds from Refinancing.

Net Proceeds from Refinancing shall be allocated and distributed among the Partners in the following order of priority:

(1) To each partner who has a Capital Account balance greater, in proportion to the aggregate of all capital account balances, than his Interest, in the ratio of the Interests of each such Partner, until the Capital Account balance of each such Partner is the same in proportion to the aggregate of all Capital Account balances as his Interest.

(2) The balance, to the Partners in proportion to their respective Interests.

E. Gain from Sale.

Gain from Sale shall be allocated among the Partners in the following order of priority:

(1) To each Partner who has a negative Capital Account immediately preceding the transaction giving rise to the gain, in the ratio which the negative Capital Account of each bears to the aggregate of all negative Capital Accounts, until all negative Capital Accounts have been increased to zero.

(2) Next, to each Partner who has a Capital Account balance after the adjustment in Section 6E(1) lesser, in proportion to the aggregate of all Capital Account balances, than his Interest, in the ratio of the Interests of each such Partner, until the Capital Account balance of each such Partner is the same in proportion to the aggregate of all Capital Account balances as his Interest.

(3) The balance, to the Partners in proportion to their respective Interests.

F. Loss from Sale.

Loss from Sale shall be allocated among the Partners in the following order of priority:

(1) To each Partner who has a positive Capital Account immediately preceding the transaction giving rise to the loss, in the ratio which the positive Capital Account of

each bears to the aggregate positive Capital Accounts, until each Partner's Capital Account is reduced to zero.

(2) The balance, to the Partners in proportion to their respective Interests.

G. Net Proceeds from Sale.

Net Proceeds from Sale shall be allocated and distributed among the Partners in the proportion that the positive Capital Account of each bears to the aggregate positive Capital Accounts (after the allocations and distributions otherwise provided in this Section) until all Capital Accounts have been reduced to zero; and the balance in proportion to their Interests.

H. Mid-Year Transfers.

All Gain or Loss from Sale and distributions of Net Proceeds from Sale or Net Proceeds from Refinancing allocable to any Interest which has been transferred during the year shall be allocated and distributed, respectively, to the holder of the Interest on the date of the Sale or Refinancing. Gains or Losses attributable to, and Net Proceeds which represent, Net Proceeds not received by the Partnership as cash upon a Sale or Refinancing but which will be received later by the Partnership as a result of an installment or other deferred sale shall be allocated or distributed, as the case may be, to the holder of the Interest on the date the proceeds are received by the Partnership.

I. Minimum Allocation to General Partner.

Notwithstanding anything to the contrary that may be expressed or implied in this Agreement, there shall be allocated to the General Partner at least 0.01% of every item of income, gain, loss, deduction or credit at all times during the existence of the Partnership.

J. Minimum Gain Charge-back.

(1) Notwithstanding any other provision of this Agreement, if there is a net decrease in the Partnership's Minimum Gain during any Partnership fiscal year, each Partner who would otherwise have a Modified Negative Capital Account at the end of such year shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount and manner sufficient to eliminate such Modified Negative Capital Account as quickly as possible. The items to be so allocated shall be determined in accordance with Treasury Regulation Section 1.704-1(b)(4)(iv)(e). This Section 6J is intended to comply with the minimum gain charge-back requirement in such Section of the Regulations and shall be interpreted consistently therewith.

(2) Notwithstanding any other provision of this Agreement, if there is a net decrease in a Partner's nonrecourse debt minimum gain as defined in Treasury Regulation Section 1.704-2(i)(3) during any Partnership fiscal year, there shall be allocated to such partner items of income and gain in accordance with Treasury Regulation Section 1.704-2(0(4).

K. Qualified Income Offset.

Except as provided in Section 6J hereof, in the event any Limited Partner unexpectedly received any adjustments, allocations or distributions described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specifically allocated to each such Limited Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Modified Negative Capital Account of such Limited Partner as quickly as possible.

L. Tax Allocations: Code Section 704(c).

In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial Gross Asset Value of such property.

In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 2J(2) hereof, 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 Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intention of this Agreement and the requirements of Code Section 704(c). Allocations pursuant to this Section 6L 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 Partner's Capital Account or share of Taxable Income, Taxable Loss, other items, or distributions pursuant to any provision of this Agreement.

**7. RIGHTS, POWERS AND DUTIES OF THE GENERAL PARTNER**

A. The General Partner shall have the exclusive right to manage the business of the Partnership, and to make all decisions regarding the business of the Partnership. No Limited Partner (except one who may also be a General Partner, and then only in its capacity as General Partner) shall participate in or have any control over the Partnership business or have any authority or right to act for or bind the Partnership.

B. Subject to the consent of the Limited Partner when expressly required by this Agreement, the General Partner shall have all the rights and powers of a general partner as provided in the Act and as otherwise provided by law, and any action taken by the General Partner shall constitute the act of and bind the Partnership. The General Partner is granted the right, power and authority to do in the name of, and on behalf of, the Partnership all things which, in its sole judgment, are necessary, proper or desirable to carry out the purposes of the Partnership, including, but not limited to the right, power and authority:

(1) To own, acquire by lease or purchase, develop, maintain, improve, grant options with respect to, sell, convey, assign, mortgage or lease any real estate and any

personal property, and to cause to have constructed improvements upon any real property necessary, convenient or incidental to the accomplishment of the purposes of the Partnership.

(2) To execute any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the development, management, maintenance and operation of any properties in which the Partnership has an interest, including without limitation, necessary easements to public or quasi-public bodies or public utilities.

(3) To employ or retain persons, including their or any Limited Partner's Affiliates, to provide property acquisition, management, leasing or other services for the Partnership (it being understood and agreed that the provision of such services does not constitute a part of the duties or obligations of the General Partner as general partner of the Partnership).

(4) To borrow money and issue evidences of indebtedness in furtherance of any or all Partnership purposes, and to secure the same by deed of trust, mortgage, security interest, negative pledge, pledge or other lien or encumbrance on the Project or any other assets of the Partnership.

(5) To repay when due or in advance, in whole or in part, negotiate, refinance, recast, increase, renew, modify or extend any secured or other indebtedness affecting Partnership properties and in connection therewith to execute any extensions, renewals or modifications of any evidences of indebtedness secured by deeds of trust, mortgages, security interests, pledges or other encumbrances covering such properties.

(6) To engage a real estate broker, whether an Affiliate of theirs or of any Limited Partner or otherwise, to sell or engage in other real estate activities in relation to any Partnership property upon such terms and conditions as are deemed appropriate by the General Partner and in the best interests of the Partnership, and to pay reasonable compensation for such services.

(7) To enter into any kind of activity and to perform and carry out contracts of any kind necessary to, or in connection with, or incidental to the accomplishment of the purposes of the Partnership, so long as those activities and contracts may be lawfully carried on or performed by a limited partnership under applicable laws and regulations.

(8) To lend money to the Partnership, as a creditor of the Partnership and not as an additional capital contribution; provided that any such loan shall be on terms and at an interest rate which are as favorable to the Partnership as those which could have been obtained by it on the same type of loan in the same locality from a lending institution.

C. Notwithstanding any other provision of this Agreement, the General Partner may not sell all or substantially all of the Project nor borrow money for the purpose (in whole or in part) of utilizing some or all of the proceeds therefrom to make distributions to one or more of the Partners, without the consent of all of the Interests owned by all the Partners, including the Interests owned by the General Partner. Upon the receipt of the requisite consent, the General Partner shall be authorized to sell the Project notwithstanding that such act would make it

impossible thereafter to carry on the ordinary business of the Partnership, and each Limited Partner shall be deemed to have given his written consent to the specific act.

D. Each Limited Partner specifically authorizes the General Partner to execute and file any certificate complying with Article 2 of the Act, as it may be amended from time to time.

E. Williamsburg Senior GP, LLC designated as the Company's "Tax Matters Manager."

(1) The Tax Matters Manager is authorized to represent the Company in connection with all examinations of the Partnership's affairs by tax authorities or any administrative or judicial tax proceedings with respect to the Partnership, and to expend Partnership funds for professional services and costs associated therewith, and the Partnership will reimburse the Tax Matters Manager for any such costs or other costs associated with carrying out its role as Tax Matters Manager that it incurs directly. The Tax Matters Manager will have sole discretion to determine whether the Partnership (either on its own behalf or on behalf of the Partners) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any tax authority with respect to the Partnership and whether the Partnership will make any elections with respect to any tax assessment or proceeding.

(2) To the extent that the Partnership is an "eligible partnership" (as such term is used in Regulations § 301.6221(b)-1) and is permitted to make an election under Code Section 6221(b) and Regulations § 301.6221(b)-1 (an "Opt-Out Election"), the Partnership shall make an Opt-Out Election on its federal income tax return for each taxable year of the Partnership to elect out of the application of the new partnership audit laws and procedures set forth in Subchapter C of Chapter 63 of Subtitle F of the Code, as modified by Section 1101 of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74, and including any successor statutes thereto or Regulations promulgated or official guidance issued thereunder (the "Partnership Audit Procedures").

(3) For each taxable year of the Partnership for which no Opt-Out Election is made, the Partnership shall designate, pursuant to Regulations § 301.6223-1 (and any successor Regulations and other applicable guidance) on its United States federal income tax return for each such taxable year of the Partnership, the Tax Matters Manager as the "partnership representative" for the Partnership (the "Partnership Representative"), and shall make such corresponding designations under any corresponding provisions of applicable foreign, state, or local tax law. To the extent that the Tax Matters Manager is not an individual, the Tax Matters Manager shall select any Person to serve as its "designated individual" pursuant to the Partnership Audit Procedures. The Tax Matters Manager, in its capacity as the Partnership Representative, shall (i) determine all matters with respect to any examination of the Partnership by any taxing authority (including, without limitation, the allocation of any resulting taxes, penalties, and interest among the Partners and whether to make an election under Code § 6226 (and any similar provision under applicable foreign, state, or local tax law) with respect to any audit or other examination of the Partnership) and, (ii) notwithstanding anything herein to the contrary, make such elections as it deems appropriate pursuant to the provisions of the Partnership Audit Procedures.

(4) Each Partner and former Partner agrees to cooperate, and to cause its direct and indirect owners to cooperate, with the Partnership Representative and to do or refrain from doing any or all things reasonably requested by the Partnership Representative with respect to the conduct of any tax proceedings, in each case regardless whether then a Partner or after ceasing to be a Partner. Any deficiency for taxes imposed on any Partner or former Partner or its direct or indirect owners (including penalties, additions to tax, or interest imposed with respect to such taxes) will be paid by such Partner or former Partner or its direct or indirect owners as applicable, and if required to be paid (and actually paid) by the Partnership, such Partner or former Partner shall indemnify the Partnership for such amounts within thirty days of such payment by the Partnership, in each case regardless of whether then a Partner or after ceasing to be a Partner.

(5) At the request of the Partnership Representative, in connection with an adjustment of any item of income, gain, loss, deduction, or credit of the Partnership or any subsidiary entity in which the Partnership has an interest, directly or indirectly, each Partner and former Partner shall, and shall cause its direct and indirect owners, as applicable, to, promptly file one or more amended tax returns in the manner contemplated by Code § 6225(c) (and any Regulations or official guidance relating thereto, and, if applicable, any corresponding or similar provisions under state or local law) and pay any tax due with respect to such returns. If the Partnership Representative makes an election for the Partnership pursuant to Code § 6226 with respect to an imputed underpayment, each Partner and former Partner shall, and shall cause its direct and indirect owners, as applicable, to, comply with the requirements under such section (and any Regulations or official guidance relating thereto). At the request of the Partnership Representative, each Partner and former Partner shall, and shall cause its direct and indirect owners, as applicable, to, provide the Partnership Representative and the Partnership with any information available to such Partner or former Partner (or its direct or indirect owners or representatives) and with such representations, certificates, or forms relating to such Partner or former Partner (or its direct or indirect owners or representatives) and any other documentation, in each case, that the Partnership Representative determines, in its reasonable discretion, are necessary to modify an imputed underpayment under Code § 6225(c) or the Regulations or other official guidance thereunder. In the event that any imputed underpayment is paid or payable by the Partnership under Code § 6225(a)(1), each Partner and former Partner shall indemnify the Partnership in an amount equal to such Partner's or former Partner's share (as determined by the Partnership Representative with the advice of the Partnership's tax counsel) of the imputed underpayment and any associated interest and penalties) paid or payable by the Partnership; provided, however, that the Partnership Representative may determine, in its discretion, to allocate the burden of such amount to such Partner without requiring payment by such Partner to the Partnership.

(6) Each Partner's obligations to comply with the requirements of this Section 11.4 shall survive the Partner's transfer of all or any portion of the Partner's interest in the Partnership, otherwise ceasing to be a Partner and/or the termination, dissolution, liquidation, and winding up of the Partnership, to the extent applicable.

F. Any person dealing with the Partnership or the General Partner may rely upon a certificate signed by the General Partner hereinafter named as to:

- (1) the identity of the General Partner or a Limited Partner,

(2) the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the General Partner or which in any other manner are germane to the affairs of the Partnership,

(3) the authorization of persons who execute and deliver any instrument or document of the Partnership, or

(4) any act or failure to act by the Partnership or as to any other matter whatsoever involving the Partnership or any Partner.

**8. RIGHTS AND POWERS OF THE LIMITED PARTNER.**

No Limited Partner shall have or exercise any rights in connection with the management of the Partnership business, but may exercise only the rights and powers of a Limited Partner under the Agreement, including without limitation, the giving of consents and approvals provided for in the Agreement. The exercise of such rights and powers is deemed to be a matter affecting the basic structure of the Partnership and not the control of its business.

**9. AUTHORITY OF THE PARTNERS AND AFFILIATED PERSONS TO DEAL WITH THE PARTNERSHIP**

A. Dealings with Affiliates.

The General Partner, in its discretion, may engage any person, firm or corporation in which it, any Partner, or any Affiliate thereof may have an interest, at reasonable and competitive rates of compensation for the performance of any and all services or purchase of goods or other property which may at any time be necessary, proper, convenient, or advisable in carrying on the business and affairs of the Partnership or disposing of some or all of its assets; provided, that the compensation or price therefor shall not exceed those prevailing in arm's length transactions by others rendering similar services in comparable transactions as an on-going activity in the same geographical area.

B. Reimbursement for Expenses.

The General Partner shall be entitled to charge the Partnership, or to be reimbursed by the Partnership, for all expenses reasonably incurred by it in connection with Partnership business.

**10. AUTHORITY OF THE PARTNERS TO ENGAGE IN OTHER BUSINESS.**

Any of the Partners may engage in and/or possess an interest in other business ventures of any nature and description, independently or with others, including but not being limited to, the ownership, financing, leasing, operation, management, brokerage and development of real property; and neither the Partnership nor the Partners shall have any right by virtue of this Agreement in and to any independent venture or to any income or profits derived therefrom. Neither the General Partner nor any Affiliate of the General Partner shall be obligated to present any particular investment opportunity to the Partnership even if such opportunity is of a character which, if presented to the Partnership, could be taken by the Partnership. Neither the General

Partner nor any Affiliate of the General Partner shall be obligated to offer to lease or sell, as the case may be, any Partnership property to any person seeking to lease or purchase real property even if the Partnership property is available for lease or sale and is of a character which might be suitable for the purposes of the prospective lessee or purchaser, and they shall have the right to offer to lease or sell to any such person any non-Partnership property held for the account of the General Partner or Affiliate or any other person.

**11. BANK ACCOUNTS.**

The funds of the Partnership shall be deposited in the name of the Partnership in such bank or savings and loan accounts as may be required, and the General Partner shall arrange for the appropriate conduct of such account.

**12. BOOKS OF ACCOUNT, ACCOUNTING PRACTICES, REPORTS AND TAX ELECTIONS.**

A. The General Partner shall maintain and keep at the principal office of the Partnership books of account, in which shall be entered fully and accurately each and every transaction of the Partnership. Each Partner shall at all reasonable times have access thereto and the right to inspect and copy.

B. The books shall be kept on the cash receipts and disbursements method or the accrual method, as the General Partner may determine.

C. Any Partner shall have the right to a private audit of the books and records of the Partnership, provided such audit is made at the expense of the Partner desiring it and is made at reasonable times after due notice.

D. Within ninety (90) days after the close of the Partnership accounting year, the General Partner shall send to all Partners an annual report containing a statement of income, expenses and deductions of the Partnership which reflects the Taxable Income or Loss for the year and the allocation thereof to each Partner. The General Partner may also send to all Partners such quarterly, semi-annual or other reports or information, audited or unaudited, as it in its sole discretion may determine to be the best interest of the Partnership.

E. The General Partner is authorized to make or revoke on behalf of the Partnership an election under Section 754 of the Code and any other elections with respect to tax matters it deems advisable.

**13. MEETINGS.**

Meetings of the Partners shall be held at the principal office of the Partnership or at such other place as is designated, upon call of the General Partner or Limited Partner owning 20% of the Interests then outstanding, upon written notice of at least ten (10) days.



**14. INDEMNIFICATION AND EXCULPATION OF GENERAL PARTNER.**

A. Indemnification.

The General Partner shall be indemnified and held harmless by the Partnership from any liability resulting from any act performed by it within the scope of the authority conferred upon it by this Agreement, except for acts of gross negligence or willful misconduct or for damages arising from any material misrepresentation; provided, however, that any indemnity under this Article shall be paid out of the Partnership assets only, and no Limited Partner shall have any personal liability therefor.

B. Exculpation.

The General Partner shall not be liable to the Partnership or any other Partners for or as a result of any act, omission or error in judgment which was taken, omitted or made by it in the exercise of its judgment in good faith under this Agreement, provided such act, omission or error does not constitute willful misconduct or gross negligence.

**15. ASSIGNABILITY OF PARTNERSHIP INTERESTS.**

A. General Partner.

The General Partner may not assign its Interest in the Partnership without the prior written consent of Partners owning 51% of the total Interests. Provided said consent is obtained and unless otherwise agreed in writing by all Partners, the assignee of any portion of the Interest of the General Partner shall become a Limited Partner with the rights of the General Partner before the assignment, except any right to manage and control the Partnership's business and to receive the minimum allocations under Section 61.

B. Limited Partner.

(1) Assignment.

(a) Subject to the other subsections of this Section 15B(1), a Limited Partner may assign some or all of his Interest by a duly executed, written instrument of assignment, upon obtaining the written consent of the General Partner, which consent shall not be unreasonably withheld. The effective date of the assignment shall be the first day of the month following the date on which the General Partner has received a duly executed counterpart of the instrument of assignment and has consented to the assignment. Until that date, the General Partner and the Partnership shall treat the assignor as the owner of the Interest in all respects.

(b) If a Limited Partner wishes to assign all or a part of his Interest in the Partnership, he shall notify the Partnership and the Partners in writing of the price and terms thereof. The Partnership shall have the option, within fifteen (15) days after receipt of the notice, to purchase the entire Interest offered upon the terms of the offer. The option may be exercised by giving notice to the offering Limited Partner within the fifteen (15) day period. If the Partnership does not exercise its option, then the Partners shall have the option, within fifteen (15) days after lapse of the Partnership's option, to purchase the entire Interest offered upon the terms

of the offer. The option may be exercised by giving notice to the selling Limited Partner within the fifteen (15) day period commencing the day after the lapse of the Partnership's option. If more than one Partner desires to exercise the option, they may purchase the offered Interest in proportion to their respective Interests set forth on Exhibit A unless they otherwise agree. If the Partners do not elect to purchase the entire Interest being offered, then the offering Limited Partner may assign his Interest to persons other than Partners at a price not below nor upon terms more advantageous to the buyer than those contained in the offer; provided, however, that all of the other conditions of this Section 15B(1) shall have been satisfied. If the assignment is not made and consummated within six (6) months after the date of notice of the offer to the Partnership and the Partners, the selling Limited Partner may not thereafter dispose of his Interest without again giving the Partners the option to purchase his Interest as aforesaid.

(c) No assignment may be made if the assignment of the Interest sought to be assigned, when added to the total of all other Interests sold or exchanged within the period of 12 consecutive months prior thereto, would in the opinion of counsel for the Partnership, result in the Partnership being considered to have terminated within the meaning of Section 708 of the Code.

(d) No assignment may be made except pursuant to registration under the applicable securities laws or the opinion of counsel for the Partnership that an assignment may be effected without registration. The restrictions on resale shall be fully set forth on any certificate representing the ownership of any Interest which may be issued by the Partnership and shall also be fully set forth in any transfer records of the Partnership maintained with respect to any such certificates.

(e) No assignment may be made to a minor or incompetent person except by will, intestate succession, or gift under the Uniform Gifts to Minors Act or pursuant to the terms of any inter vivos trust.

(f) Unless named in this Agreement, admitted to the Partnership under other provisions of this Agreement, or admitted to the Partnership by the unanimous agreement of the Partners, no person shall be considered a Partner; and the Partnership, each Partner, and any other person having business with the Partnership need deal only with Partners so named and so admitted. They shall not be required to deal with any other person by reason of any assignment by a Partner or by reason of the death of a Partner, except as otherwise provided in this Agreement. In the absence of substitution of a Limited Partner for an assigning or deceased Limited Partner, any payment to a Partner, or to his executors or administrators, shall acquit the Partnership of all liability to any other person who may be interested in such payment by reason of any assignment by the Partner or by reason of his death or incompetency.

(g) Notwithstanding an assignment, the assignor shall remain liable for any amounts payable under Sections 5C and 5D, unless released by the General Partner

(2) Substituted Limited Partners.

An assignee may become a substituted Limited Partner in place of his assignor only if all of the following conditions are satisfied:

- (a) The requirements of Section 15B(I) have been fulfilled.
- (b) The instrument of assignment sets forth the intention of the assignor that the assignee shall succeed to the assignor's interest as a substituted Limited Partner in his place.
- (c) The assignor and assignee shall execute and deliver such other instruments as the General Partner may require, including written acceptance by the assignee of the Agreement.
- (d) The written consent of the General Partner to the substitution shall have been obtained, which consent may be withheld for any reason in the General Partner's sole determination even if said determination is unreasonable.
- (e) The assignee shall have paid all reasonable fees and costs incurred by the Partnership in connection with his substitution as a Limited Partner, as determined by the General Partner.

Until such time, if any, as an assignee becomes a substituted Limited Partner, the assignee shall have none of the rights of a Limited Partner other than the right of his assignor to receive distributions from the Partnership in accordance with the terms of this Agreement.

(3) Excluded Transfer.

(a) Section 15B(1) shall not apply to any transfer or assignment of an Interest of a bankrupt, deceased or incompetent Partner to the trustee, executor, administrator or guardian of his estate, but shall apply to such trustee, executor, administrator or guardian to the same extent that, under the circumstances of any particular, transfer, sale, assignment, gift, bequest or other disposition, such provision would have applied to the bankrupt, deceased or incompetent Partner.

(b) The restrictions of Section 15B(1) and the requirement of the General Partner's consent under Section 15B(2) shall not apply to the transfer or assignment (in trust or otherwise) by a Partner, whether on death or inter vivos, of all or any part of his Interest (i) to another Partner, (ii) to or for the benefit of himself, his spouse, his siblings, any of his natural or adopted descendants or the spouse of any such descendants, or (iii) in the case of a corporate Partner, to a parent, subsidiary, stockholder, officer, director or corporation under common control with such corporate Partner, except that a transfer described in this subsection may be deferred or restricted as required by any applicable federal or state securities and/or tax laws.

**16. DEATH, LEGAL DISABILITY OR INCOMPETENCY, OR BANKRUPTCY OF A LIMITED PARTNER.**

Death, legal disability or adjudication of disability, incompetency or bankruptcy of a Limited Partner shall not dissolve the Partnership. In such event, the personal representative of the deceased Limited Partner, or the committee or other legal representatives of the estate of the disabled or incompetent Limited Partner or the trustee or receiver of a bankrupt Limited Partner shall, for purposes of settling the estate, have all of the rights of a Limited Partner but may not

become a substituted Limited Partner unless the General Partner consents in writing. In addition, such personal representative, committee or other legal representative, or trustee or receiver shall have the same rights (subject to the same limitations) as its predecessor would have had under Section 15 to assign the predecessor's Partnership interest, but the assignee shall not become a substituted Limited Partner unless the General Partner consents in writing.

## 17. DISSOLUTION OF THE PARTNERSHIP.

### A. Events Causing Dissolution.

Any of the following acts shall dissolve the Partnership:

- (1) Agreement in writing by Partners owning 51% of the total Interests;
- (2) Withdrawal of a sole remaining General Partner;
- (3) The death, incompetency, liquidation, dissolution or bankruptcy of a sole remaining General Partner or the occurrence of any other event causing the dissolution of the Partnership under the laws of the Commonwealth of Virginia. Notice of such death, incompetency, liquidation, dissolution or bankruptcy shall be given to each of the other Partners by the executor, personal representative or other legal representative of the deceased, incompetent, liquidated, dissolved or bankrupt Partner within sixty (60) days after the date of death or declaration of incompetency, liquidation, dissolution or bankruptcy. The death, incompetency, liquidation, dissolution or bankruptcy of a General Partner shall not cause a dissolution of the Partnership if there remains a legally competent General Partner.
- (4) The sale or other disposition of all or substantially all of the Project.
- (5) The expiration of the Partnership's term.

### B. Election to Continue Partnership.

Notwithstanding the preceding provisions of Section 17, the events set forth in Section 17A(2) and 17A(3) shall not result in the winding up and termination of the Partnership if, within ninety (90) days after one of those events, all Partners elect to reconstitute the Partnership and continue the Partnership business.

If an election to continue the Partnership business is made, a successor General Partner or General Partners shall be elected by Limited Partners owning a majority of the Interests, and the Partnership shall continue until the end of the term for which it is formed or until the subsequent death, incapacity, dissolution, withdrawal or bankruptcy of the General Partner, in which event, the Partners shall again elect whether they wish to continue the Partnership.

If an election to reconstitute the Partnership is made, or in the event of the death, incompetency, liquidation, dissolution or bankruptcy of a General Partner while there remains a legally competent General Partner, then the General Partner as to which the event described in Section 17A(2) or (3) occurred shall cease to be a General Partner, and the former General Partner or its successor shall become a special Limited Partner with respect to its Interest, with the same

rights as it possessed before the dissolution, except any right to manage and control the Partnership's business and affairs.

C. Failure to Continue Partnership.

If the Limited Partners do not elect to continue the Partnership, as set forth in Section 17B, Partners owning in the aggregate a majority of the Interests shall select a person to wind up the Partnership's affairs. The person so selected shall proceed to sell or otherwise liquidate all of the Partnership property in a bona fide sale or sales to outsiders at such prices and upon such terms as that person may deem most advisable. Such sales shall be deemed to be proper acts in the winding up of the affairs of the dissolved Partnership and the Net Proceeds of Sale, after paying or providing for the payment of all Partnership debts, shall be distributed to the Partners in accordance with Section 6G. Upon the termination of the Partnership, the General Partner shall contribute to the Partnership an amount equal to the deficit balance in their Capital Account at such time and in such manner as shall comply with the requirements of Treasury Regulation Section 1.704-1(b)(2)(ii)(b)(3).

D. Withdrawal of a General Partner if There Remains One or More General Partners.

The withdrawal of a General Partner shall not dissolve the Partnership if there is at the time at least one other General Partner, in which case the business of the Partnership shall be carried on by the remaining General Partner or General Partners. In such event, the withdrawing General Partner shall become a special Limited Partner with respect to its Interest, with the same rights as it possessed before the event of withdrawal, except any right to manage and control the Partnership's business end affairs.

**18. COUNTERPARTS.**

This Agreement may be executed in several counterparts, all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart, except that no counterpart shall be binding unless signed by the General Partner.

**19. MISCELLANEOUS PROVISIONS.**

A. Governing Law.

This Agreement and the rights and liabilities of the parties shall be determined in accordance with the laws of the Commonwealth of Virginia.

B. Captions.

Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

C. Construction.

Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

D. Survival of Representations and Warranties.

All representations and warranties herein shall survive until the termination of the Partnership, except to the extent that a representation or warranty expressly provides otherwise.

E. Severability.

Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the terms or provisions within this Agreement.

F. Successors.

Subject to the limits on transferability contained herein, each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the successors, heirs, and assigns of the respective parties hereto.

**20. NOTICES.**

Each Partner shall keep the General Partner informed of his current business address. The General Partner shall keep the business addresses furnished by the Partners on file at the Partnership offices; and any and all notices required under this Agreement which are in writing and mailed, by registered or certified mail, return receipt requested, to a Partner at the last address given by him to the General Partner, or to the Partnership at its specified office, shall constitute the notice required under this Agreement.

**21. AMENDMENT.**

A. This Agreement may be amended by the General Partner without the approval of any Limited Partner, if the amendment is solely for the purpose of clarification and does not change the substance hereof.

B. This Agreement may further be amended by the General Partner without the approval of any Limited Partner if such amendment is for the purpose of admitting substituted Limited Partners, and/or reflecting the withdrawal, reduction or return of all or part of the capital contributions of a Partner.

C. This Agreement may further be amended by the General Partner without the approval of any Limited Partner, if the amendment is, in the opinion of counsel for the Partnership, necessary or appropriate to satisfy requirements of the Code with respect to partnerships or of any

federal or state securities law or regulations. Any amendment made pursuant to this Section may be made effective as of the date of this Agreement.

D. Notwithstanding Sections 21A, 21B and 21C, any amendment to this Agreement which would adversely affect the federal income tax treatment to be afforded a Limited Partner, adversely affect the liabilities of a Limited Partner, or change the method of allocation of Taxable Income or Taxable Loss, Gain or Loss from Sale, or the distribution of Net Cash from Operations, Net Proceeds from Sale or Net Proceeds from Refinancing as provided in Section 6, shall require the approval of the Limited Partner affected; provided, however, that the General Partner is authorized to modify Section 6, without the consent of the Limited Partner, if, upon advice of counsel, the modification is necessary to cause the allocations under Section 6 to have substantial economic effect or to be in accordance with the Partners' deemed interests under Section 704 of the Code and the most recently proposed or final regulations thereunder, so long as the modification does not, by its terms, alter the limited liability of the Limited Partner.

E. Except as otherwise specifically provided in Section 21, amendments to this Agreement shall require the approval of the Partners owning all of the Interests then owned by them.

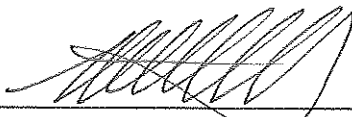
F. A copy of any amendment to be approved by the Limited Partner pursuant to Sections 21D and 21E shall be mailed in advance to the Limited Partner. Partners shall be notified as to the substance of any amendment pursuant to Section 21A, 21B and 21C, and upon request shall be furnished a copy thereof

**[REMAINDER OF PAGE LEFT BLANK;  
SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

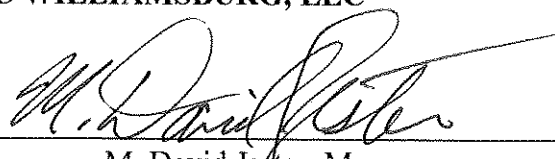
**GENERAL PARTNER:**

**WILLIAMSBURG SENIOR GP, LLC**

By:   
\_\_\_\_\_  
Brian L. Staub, Manager

**LIMITED PARTNER:**

**MDC WILLIAMSBURG, LLC**

By:   
\_\_\_\_\_  
M. David Jester, Manager



**EXHIBIT A  
TO  
AGREEMENT OF LIMITED PARTNERSHIP  
OF  
WILLIAMSBURG SENIOR, LP**

**NAME AND ADDRESS  
OF GENERAL PARTNER**

Williamsburg Senior GP, LLC  
308 35th Street, Suite 101  
Virginia Beach, Virginia 23451

**CAPITAL CONTRIBUTION**

\$100

**INTEREST**

0.01%

**NAME AND ADDRESS  
OF LIMITED PARTNER**

MDC Williamsburg, LLC  
308 35th Street, Suite 101  
Virginia Beach, VA 23451

**CAPITAL CONTRIBUTION**

\$900

**INTEREST**

99.99%

\$1,000

100%

**OPERATING AGREEMENT  
OF  
WILLIAMSBURG SENIOR GP, LLC**

**THIS OPERATING AGREEMENT** is made as of July 17, 2020, by and among the undersigned persons (collectively, the “Members”).

**WHEREAS**, Williamsburg Senior, LP (the “Partnership”) has been established for the purpose of developing, constructing and owning an affordable apartment project for residents 62 years of age or older located in York County, Virginia (the “Project”) to be financed in part by low income housing tax credits pursuant to Section 42 of the Federal Internal Revenue Code (“Tax Credits”) and by tax-exempt bonds; and

**WHEREAS**, the Members have formed a limited liability company under the laws of the Commonwealth of Virginia known as Williamsburg Senior GP, LLC (the “Company”), which is intended to serve as the General Partner of the Partnership; and

**WHEREAS**, the Members desire to, and do hereby, adopt the provisions of this Operating Agreement as the expression of their mutual undertakings and agreements with respect to the operation of the Company; and

**WHEREAS**, MDC Williamsburg, LLC has been formed a limited liability company under the laws of the Commonwealth of Virginia, which is intended to serve as the limited partner of the Partnership; and

**WHEREAS**, the Company will enter into a Partnership Agreement with MDC Williamsburg, LLC relating to the ownership of the Project; and

**WHEREAS**, the Company will enter into various agreements on behalf of the Partnership relating to the ownership, development, construction and operation of the Project.

**NOW, THEREFORE**, intending to be legally bound, and in consideration of the mutual covenants and conditions set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

**ARTICLE 1  
THE COMPANY**

1.1 Organization; Effective Date. The parties have formed the Company pursuant to the Act, as defined below, by filing Articles of Organization with the Virginia State Corporation Commission. The effective date of the formation of the Company is July 17, 2020.

1.2 Name. The name of the Company is Williamsburg Senior GP, LLC, and the business of the Company shall be conducted under that name.

1.3 Principal Office and Records. The principal office of the Company, which will also be the place at which will be kept the records required to be maintained by the Company under the

Act, shall be located at 308 35th Street, Suite 101, in the City of Virginia Beach, Virginia 23451, unless such office is changed by action of the Managers pursuant to this Agreement.

1.4 Registered Agent and Registered Office. The initial registered agent of the Company is Timothy O. Trant II, who is a resident of Virginia and a member of the Virginia State Bar and whose post office address is 11815 Fountain Way, Suite 400, Newport News, Virginia 23606, which said address shall also be the registered office of the Company required by the Act.

1.5 Purpose of the Company. The Company has been formed and will be operated for the purpose of serving as the General Partner of the Partnership, which will develop, construct, and own the Project.

## **ARTICLE 2 DEFINED TERMS**

Certain terms used in this Agreement shall have the following meanings:

2.1 “Act.” The Virginia Limited Liability Company Act, as contained in Chapter 12 of Title 13.1 of the Code of Virginia of 1950, as the same may be amended from time to time.

2.2 “Adjusted Capital Account Deficit.” With respect to any Member, the deficit balance, if any, in such 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 amount which such Member is obligated to restore under any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1), 1.704-1(b)(2)(ii)(c) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

2.3 “Agreement.” This Operating Agreement as the same may be amended from time to time.

2.4 “Capital Account.” With respect to any Member, the Capital Account maintained for such Member in accordance with Section 3.7.

2.5 “Capital Contributions.” With respect to any Member, the total amount of money or property contributed to the Company with respect to the Company Interest held by such Member. Except as provided in Section 8.5, no in kind contributions of property other than cash shall be accepted by the Company.

2.6 “Code.” The Internal Revenue Code of 1986, as amended.

2.7 “Company.” Williamsburg Senior GP, LLC, a Virginia limited liability company.

2.8 “Company Minimum Gain.” The amount determined under Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

2.9 “Depreciation.” For each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction determined for federal income tax purposes, allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value 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.

2.10 “Disability.” Shall mean the total permanent disability of a Member or Manager such that the Member or Manager is unable to perform the essential functions of his or her position as Member or Manager, with or without reasonable accommodation, which said disability shall be determined as follows: (i) the Managers make such a finding, by at least a two-thirds majority vote of such Managers; or (ii) a Court of appropriate jurisdiction in a final adjudication so determines; or (iii) at least fifty-one percent (51%) of the Managers, and the purportedly disabled Member or Manager or his or her respective legal representative, each have named a physician to examine the disabled Member or Manager and the said physicians determine that the disabled Member or Manager suffers from a "total permanent disability", or in the event the two physicians cannot agree, a third physician named by the said two physicians determines, in consultation with the other two physicians, that the disabled Member or Manager suffers from a "total permanent disability".

2.11 “General Partner.” The general partner of the Partnership.

2.12 “Gross Asset Value.” With respect to any asset, the asset’s adjusted basis for federal income tax purposes (i.e., the initial cost basis for the asset adjusted for various tax-related items such as depreciation, capital investment, etc.), except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Members, as of the following times: (i) the acquisition of an additional Interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an Interest in the Company if the Members reasonably determine that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members in the Company; and (iii) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(c) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this Section 2.12(d) to the extent the Members determine that an adjustment pursuant to Section 2.12(b) is necessary or appropriate in connection with such transaction.

If the Gross Asset Value of an asset has been determined, or adjusted pursuant to Section 2.12(a), 2.12(b) or 2.12(d) hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

2.13 “Interest.” When used in the context of a specific percentage of profits, losses, capital or other items to be allocated or a percentage of distributions to be made, Interest means the percentage ownership interest of a Member (or a non-Member assignee or successor in interest thereof as may be provided for in this Agreement) in the Company at any particular time as set forth on Exhibit A. In other contexts, “Interest” means all proprietary rights of the Member in the Company, including, without limitation, his or her Interest and his or her rights to profits, losses, distributions, and capital.

2.14 “Majority in Interest.” Members holding more than fifty percent (50%) of the “Relevant Interests in the Company” (as hereinafter defined), including both profits and capital interests calculated separately. The “Relevant Interests in the Company” shall in all instances be the aggregate Interests of all of the Members of the Company, except in the following cases:

(a) When written consent of “other Members” is required prior to Transfer of a Member’s Interest pursuant to Article 7 of this Agreement, the “Relevant Interests in the Company” shall be aggregate Interests of all Members of the Company excluding the Interest which is the subject of the Transfer.

(b) When written consent of “remaining Members” is required in order to elect to continue the Company following an event causing dissolution pursuant to Article 8 of this Agreement, the “Relevant Interests in the Company” shall be the aggregate Interests of all the remaining Members of the Company.

For purposes of this Section 2.14, profits interests are those Interests defined in Section 2.13 and capital interests, as of any date, are the ratios (expressed as a percentage) of each Member’s Capital Account to the aggregate Capital Accounts of all relevant Members.

2.15 “Managers.” A person or persons appointed pursuant to Section 6.1, and any person or entity appointed as successor managers under this Agreement.

2.16 “Member Minimum Gain.” An amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

2.17 “Member Nonrecourse Debt.” A nonrecourse debt of the Company as set forth in Section 1.704-2(b)(4) of the Regulations.

2.18 “Member Nonrecourse Deductions.” The deductions defined in Section 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

2.19 “Members.” The Members of this Company. All references in this Agreement to a specified percentage of the Members shall mean Members holding the specified percentage of all the Interests then held by the Members.

2.20 “Nonrecourse Debt.” The same as the term “nonrecourse liability” used in Section 1.704-2(b)(3) of the Regulations.

2.21 “Nonrecourse Deductions.” The deductions defined in Section 1.704-2(b)(1) of the Regulations.

2.22 “Partnership.” Williamsburg Senior, LP, a Virginia limited partnership.

2.23 “Partnership Agreement.” The Agreement of Limited Partnership of the Partnership, as the same may be amended.

2.24 “Person.” Any individual, partnership, corporation, trust, or other entity.

2.25 Prime Rate. The prime rate (or base rate) reported in the “Money Rates” column or section of The Wall Street Journal as being the base rate on corporate loans at larger U.S. Money Center banks on the first date on which The Wall Street Journal is published in each month. In the event The Wall Street Journal ceases publication of the Prime Rate, then the “Prime Rate” shall mean the “prime rate” or “base rate” announced by the bank with which the Company has its principal banking relationship (whether or not such rate has actually been charged by that bank). In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers.

2.27 “Profits” and “Losses.” For each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Article 2 shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 2.27 shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 2.12(b) or Section 2.12(c) hereof, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with Section 2.9 hereof;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the Asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(g) Notwithstanding any other provision of this Article 2, any items which are specially allocated pursuant to Section 10.1 or Section 10.2 hereof shall not be taken into account in computing Profits or Losses.

2.28 "Regulations." The Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as amended from time to time.

2.29 "Substituted Member." Any person or entity admitted to the Company as a Member pursuant to Section 7.4 hereof.

2.30 "Transfer." Any sale, assignment, gift, bequest, disposition, exchange, pledge, encumbrance or other transfer of any kind or description and however made, whether voluntary or involuntary, by death, by divorce, by court decree, operation of law, or otherwise, to include without limitation, any change of ownership in or control of the owner of any Interest in the Company (such as (a) the transfer of membership interest in or stock in an entity which owns Interest in the Company, or (b) the change of the beneficiaries of a trust which owns Interest in the Company).

2.31 "Withdrawal Event." The bankruptcy of a Member (or his/her successor in interest) or affirmative vote or written consent of a majority of the Managers determining that a Member (or his/her successor in interest) engaged in such activity or conduct that is materially adverse to the interests of the Company.

2.33 "Withdrawing Member." A Member (or his/her successor in interest) with respect to whom a Withdrawal Event relates.

**ARTICLE 3**  
**INTERESTS OF MEMBERS AND CAPITAL CONTRIBUTIONS**

3.1 Interests of Members and Initial Capital Contributions. The names of the Members, the Interests belonging to each of them, and the initial Capital Contribution of each Member are set forth on Exhibit A. Unless approved in writing in advance by the Managers, only individuals may be Members or Substituted Members of the Company. Accordingly, partnerships, limited liability companies, corporations, trustees/trusts and other forms of ownership may not be Members or Substituted Members of the Company without the prior written consent of the Managers.

3.2 Additional Capital Contributions. The Members shall not be required to make any additional Capital Contributions to the Company except upon the written call of the Managers, specifying the amount of the additional Capital Contribution and the specific purpose for which such additional Capital Contribution shall be used, which purpose must be to satisfy the obligations of the Company to the Partnership or as may otherwise be determined by the Managers. Any such additional Capital Contribution shall be in proportion to each Member's Interest in the Company.

(a) The Managers shall have the right to borrow funds to cover any call for capital made under this Section to which a Member has not responded, and such amount borrowed shall not be deemed a Capital Contribution to the Company but, rather, a debt due by any Member (an "Indebted Member") who has failed to contribute his or her pro rata share directly to the Company.

(b) Any advance of money to the Company by a Member in response to a call for capital or otherwise, and which advance is in excess of that Member's pro rata share of the funds called for, shall not be deemed a Capital Contribution to the Company but, rather, a debt due by any Member who has failed to contribute his or her pro rata share (an "Indebted Member") to the Member who has made such advance (a "Lending Member").

(c) Any debt incurred by an Indebted Member shall be payable on demand, or at such other time as the Managers (in the case of a debt incurred pursuant to Section 3.2(a)) or Lending Member (in the case of a debt incurred pursuant to Section 3.2(b)) shall designate and shall bear interest at the rate of 3% plus the Prime Rate; provided, however such rate shall not be higher than the highest rate permitted between contracting parties under the usury laws of Virginia.

(d) So long as the debt of any Indebted Member is outstanding, all distributions to which such Indebted Member would otherwise be entitled shall be distributed to the Company or to the Lending Member to whom such Indebted Member is indebted, to be applied to the reduction of such indebtedness, first to interest and then to principal.

(e) If any indebtedness is not paid in full within thirty (30) days after proper demand for the payment thereof, the Company or any Lending Member shall have all of the rights and remedies, at law or in equity, which a creditor may have against a debtor, which rights and remedies shall not be stayed or abated on account of the fact that the Company's affairs have not been wound up, nor shall such Lending Member's rights be limited to having an accounting of the Company's affairs.



(f) If any indebtedness incurred pursuant to Section 3.2(b) is not paid in full within thirty (30) days after proper demand for the payment thereof, any Lending Member shall have the option to elect, by written notice to the Indebted Member and to the Company, at any time prior to the full payment of such indebtedness, that the Indebted Member shall be deemed to have transferred all of his or her Interest in the Company to the Lending Member, or if there is more than one Lending Member, to such Lending Member in proportion to the indebtedness due such Lending Member by the Indebted Member, and such transfer of Interest shall be in lieu of the remedies available under Section 3.2(e) and shall constitute full payment of all monies due in respect of the debt to such Lending Member.

(g) In the event the Company or any Lending Member elects to pursue his or her rights and remedies against the Indebted Member, the Indebted Member shall pay the Company's or such Lending Member's reasonable attorney's fees and court costs incurred in addition to the amount of the aforesaid indebtedness.

3.3 Interest. No interest shall be paid on any Capital Contribution.

3.4 Withdrawals. Except as otherwise provided in this Agreement, no Member shall resign from the Company or make any withdrawals therefrom without the consent of the Managers. Under circumstances requiring a return of any Capital Contribution, no Member shall have the right to receive property other than cash except as may be specifically provided in Article 8.

3.5 Limited Liability. No Member shall be liable for the debts, liabilities, contracts or any other obligations of the Company. Except as otherwise provided by applicable state law, a Member shall be liable only to make any additional Capital Contributions which are called for strictly in accordance with the provisions of Section 3.2. The Managers shall not have any personal liability for the repayment of any Capital Contributions of any Member. No person not a party to this Agreement shall be deemed a third party beneficiary hereof, and no such person shall have the right to enforce any provision of this Agreement against any Member.

3.6 Guaranty of Company Obligations. Upon the request of the Managers, each Member shall be required to provide his or her personal guarantee to any lender, or other party designated by the Managers that (a) is financing the Company's and/or the Partnership's indebtedness for borrowed money, and/or (b) otherwise requires such assurance as consideration for its business relationship with the Company and/or the Partnership (collectively, the "Guaranteed Obligations"). If a Member is subsequently called upon by such person or other creditor holding such Guaranteed Obligations to pay on his or her guarantee and accordingly does so such Member shall be deemed a Lending Member and shall be entitled to indemnification from the other Members for the amount by which the portion of the Guaranteed Obligations that the Lending Member actually pays exceeds his or her share of the Guaranteed Obligations then being paid out of the personal funds of all Members ("Discharged Guaranteed Obligations"). (A Member's "share" of the Guaranteed Obligations or Discharged Guaranteed Obligations, as the case may be, shall be determined by multiplying (i) the Interest then held by such Member, by (ii) the amount of Guaranteed Obligations or Discharged Guaranteed Obligations, as the case may be.) Any and all other Members shall be deemed Indebted Members and shall, within thirty (30) days of the Lending Member's demand therefor, indemnify and reimburse any Lending Member who has paid more than his or her respective share of Discharged Guaranteed Obligations such

amount(s) (up to the Indemnifying Members' respective shares of Discharged Guaranteed Obligations) as shall cause each of the Lending Members and the Indebted Members to bear his or her respective share of the Discharged Guaranteed Obligations. Interest shall accrue on the amount owed at the rate of 3% plus the Prime Rate in effect from time to time (but not higher than the maximum rate legally permitted). Thereafter, any Indebted Member that does not reimburse the Lending Member for his or her proportionate share of the Discharged Guaranteed Obligations, shall be subject to the sanctions and remedies set forth in Section 3.2 in the same manner as a Lending Member would have against an Indebted Member thereunder, which provisions shall apply as though the Lending Member's excess payment under this Section 3.6 were a payment in excess of his or her pro rata share of the funds called for under Section 3.2.

### 3.7 Capital Accounts.

(a) A Capital Account shall be established and maintained for each Member. A Member shall have a single Capital Account, regardless of class of Interests owned by such Member and regardless of the time or manner in which such Interests were acquired.

(b) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Article 10 hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any property distributed to such Member.

(c) To each Member's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Article 10 hereof, and the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

(d) In the event all or a portion of an Interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

(e) In determining the amount of any liability for purposes of Sections 3.7(b) and 3.7(c) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Members shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or Member), are computed in order to comply with such Regulations, the Members may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Article 8 hereof upon the dissolution of the Company. The Members also

shall (i) make any adjustments that are necessary or appropriate to maintain equality among the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

#### **ARTICLE 4 PROFITS AND LOSSES**

After giving effect to the allocations set forth in Article 10 hereof, Profits and Losses for any fiscal year shall be allocated among the Members in proportion to their respective Interests. The Losses allocated shall not exceed the maximum amount of Losses that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any fiscal year.

#### **ARTICLE 5 DISTRIBUTIONS**

5.1 Distributions Generally. All distributions, other than in connection with the winding up of the Company subject to Article 8, shall be made in cash and shall be divided among the Members in accordance with their respective Interests as set forth in Exhibit A, subject to Sections 3.2 and 3.6. Distributions shall be made from time to time in such amounts and at such times as the Managers may determine; provided, however, that the aggregate amount of each such distribution shall be that amount which the Managers determine is not required to be retained by the Company to meet the reasonably foreseeable cash requirements and needs of the business and activities of the Company and to establish an adequate reserve for the payment of Company liabilities and contingencies.

#### **ARTICLE 6 MANAGEMENT**

6.1 Managers. The Company's business shall be managed by the Managers, who initially shall be M. David Jester, Scott A. Troutman, and Brian L. Staub. Upon the death, resignation, Disability, or removal of any of the Managers, the Members holding a Majority in Interest may elect a successor or successors as they may determine from time-to-time, provided there is always at least one Manager. A Manager need not be a Member of the Company. One or more Managers shall be entitled to receive a fee or other compensation for serving as Manager of the Company as the Managers may determine from time to time. Additionally, they may charge the Company for all expenses reasonably incurred by them directly in connection with Company business, not including office or other overhead, salaries of administrative personnel, etc. Members shall have the right to remove a Manager at any time for any reason by two-thirds (2/3rds) vote of the Relevant Interests in the Company.

6.2 Management of the Company. Except as provided below, the Managers shall have full charge of the management, conduct and operation of the Company business in all respects and all matters and shall have the authority to do all things and acts of every nature whatever, not illegal or contrary to the provisions of this Agreement, which the Managers shall deem necessary or convenient to achieve the purposes of this Agreement and of the Company. Unless otherwise

provided herein, decisions of the Managers shall be based upon a majority vote of the Managers without requirement for notice or meeting, each Manager having one (1) vote. Notwithstanding the foregoing, any decision or action of the Managers that entails the (i) expenditure of Company resources, or (ii) Company incurring an obligation, which equates to an amount greater than \$25,000.00 shall require the signature of two (2) Managers (but only if there is more than one Manager) or a written consent of a majority of the Managers.

6.3 Proportionate Voting. On any matter requiring action by the Members, Members shall vote in proportion to their respective Interests in the Company as set forth in Exhibit A attached hereto relative to the total of the Interests of all Members entitled to vote.

6.4 Authority of Members; Indemnity. Except as otherwise expressly provided in this Agreement, the Members shall take no part in the operation, management, conduct or control of the property of the Company, and shall have no right or authority, either expressed or implied, to act for or bind the Company, without the prior written authorization of the Managers. If any Member shall, without authority, bind or attempt to bind the Company, such Member shall indemnify the Company for any loss suffered or expense incurred by the Company in connection therewith.

6.5 Dealing with Affiliates. The Managers, in their discretion, may engage on behalf of the Company (to include as General Partner of the Partnership) any person, firm or corporation in which they, any Member, or any Affiliate thereof may have an interest, at reasonable and competitive rates of compensation for the performance of any and all services or purchase of goods or other property which may at any time be necessary, proper, convenient, or advisable in carrying on the business and affairs of the Partnership or disposing of some or all of its assets; provided, that the compensation or price therefor shall not exceed those prevailing in arm's length transactions by others rendering similar services in comparable transactions as an on-going activity in the same geographical area. For purposes of this Agreement, an Affiliate shall be with respect to a specified person (1) any person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified person, (2) any person that is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified person or of which the specified person is an officer, partner or trustee, or with respect to which the specified person serves in a similar capacity, (3) any person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified person or of which the specified person is directly or indirectly the owner of 10% or more of any class of equity securities or in which the specified person has a substantial beneficial interest and (4) any spouse or lineal descendant of the specified person.

6.6 Meetings of the Members. Meetings of the Members may be held by in person, telephonically, electronically, or by any other means deemed appropriate by the Managers on not less than twenty-four (24) hours advance notice to all of the Members. Any action required or permitted to be taken at a meeting of the Members, after not less than twenty-four (24) hours advance notice to all of the Members of the action to be taken, may be taken without a meeting if the action is taken by Members holding a Majority in Interests. Such action without meeting shall be evidenced by one or more written consents to be filed with the Company's records.

**ARTICLE 7**  
**ASSIGNMENT OF INTERESTS**

7.1 In General.

(a) No person shall be considered a Member unless named in this Agreement, or unless admitted to the Company as a Substituted Member as provided in this Agreement. No Member, Substituted Member, or assignee or other successor in interest thereto shall, except as provided below, Transfer any Interest in the Company without the prior written consent of the Managers. The Company, the Managers, each Member and any other person having business with the Company need only deal with Members or Substituted Members. They shall not be required to deal with any person by reason of any Transfer by a Member, except as otherwise provided in this Agreement. As provided in Section 3.1, unless approved in writing in advance by the Managers, only individuals may be Members or Substituted Members of the Company. Partnerships, limited liability companies, corporations, trustees/trusts and other forms of ownership may not be Members or Substituted Members of the Company without the prior written consent of the Managers. Notwithstanding any other provision of this Agreement, except for the Transfer of Interests between Members or as otherwise may be approved by the Managers, no Transfer of Interest in the Company shall result in a division of the Interest owned by the transferor (i.e., no Transfer of Interest shall be for less than 100% of the Interest owned by such transferor, and such Transfer of Interest may only be to a single individual, trust, or limited liability company). Any purported Transfer that violates the terms of this Section 7.1 shall be void ab initio. Any legal expense incurred in enforcing the foregoing provisions may be offset by the Company against any distribution to which the purported assignor or assignee may otherwise be entitled. In the absence of the substitution of a Member for an assigning, deceased, or dissolved Member, any payment to a Member, or to his or her successors, executors or administrators, shall acquit the Company of all liability to any other person who may be interested in such payment by reason of an assignment by the Member or by reason of his or her death or dissolution.

(b) Upon the death or dissolution of a Member, the estate, executor(s), administrator(s), personal legal representative(s), trustee(s), designated transfer on death beneficiary, or other successor in interest of such Member, as determined under applicable law, may succeed to such deceased/dissolved Member's Interest in the Company as an assignee in accordance with the provisions of Section 7.1(d) below; provided such Transfer of Interest is (i) to another Member, and/or (ii) for 100% of the Interest owned by such Member (excluding any Transfer of Interest to an existing Member or Members), and to a single individual, trust, or limited liability company. Any purported Transfer of Interest upon the death or dissolution of a Member or upon the death or dissolution of an assignee or other successor in interest to a Member, that is not (1) to another Member, and/or (2) for 100% of the Interest owned by such Member or assignee or other successor in interest to a Member (excluding any Transfer of Interest to an existing Member or Members), and to a single individual, trust, or limited liability company, shall be considered a Withdrawal Event.

(c) If a Member or an assignee thereof or other successor in interest thereto desires to sell all or any portion of his or her Interest (an "Offeror"), then such Offeror may do so; provided (i) any such sale and resulting Transfer is subject to the terms of this Agreement, (ii) such sale is subject to the satisfaction of, in the Managers' discretion, any approvals required by

creditors of the Company or the Partnership or a limited partner, including any conditions of such approvals, and (iii) before making any such sale, the Offeror must first give the other Members notice (with a copy to the Managers), specifying in writing the price, conditions and terms upon which the Offeror is willing to sell such Interest. The other Members shall have the option to purchase all of the offered Interest upon the conditions and terms set forth in the notice and for a price which is the lesser of that contained in the notice or the amount determined by the Purchase Price Calculation (“hereinafter defined”), in the manner described below:

(i) The other Members shall have thirty (30) days from the date of the notice within which to elect to purchase all of the offered Interest. The option may be exercised by giving notice to the Offeror and Managers within such thirty (30) day period. If more than one Member elects to purchase the Offeror’s Interest, then such Members may purchase the offered Interests in proportions that their respective Interests bear to the aggregate Interests of all purchasing Members, unless they otherwise agree. The closing of the purchase shall be not more than ninety (90) days from the date of the notice from the Offeror.

(ii) If the Members do not elect to purchase all of the offered Interests, then the Offeror may sell such Interest, to which the Members have not committed, at a price not below nor upon other terms more advantageous to the purchaser than the price and terms contained in the notice from the Offeror. If such sale is not made and consummated within ninety (90) days after the date of the notice from the Offeror, the Offeror may not thereafter sell or otherwise dispose of any of his or her Interest without again complying with this Section.

(d) Notwithstanding any other provision of this Agreement, unless and until established as a Substituted Member in accordance with the terms of this Agreement, the assignee of or other successor in interest to any Interest in the Company shall not be a Member and shall only be entitled to receive the share of the profits or other distributions, or the return of the contribution, to which his or her assignor or predecessor in interest would otherwise be entitled, but shall otherwise be subject to the terms, conditions and restrictions of this Agreement as if a Member, to include without limitation the obligation to make capital contributions as may be called for in accordance with the terms of this Agreement. Notwithstanding any other provision of this Agreement, as a condition to the right to receive any distribution or payment hereunder, the assignee of or other successor in interest to any Interest in the Company shall, within ten (10) days after notice of demand from any Manager, execute a written agreement(s) satisfactory to the Manager(s) acknowledging, among other things, that such assignee of or other successor in interest to any Interest in the Company shall be bound by the obligations, conditions and restrictions of this Agreement as the same applies to Members.

(e) The Transfer any Interest to an existing Member in accordance with the terms of this Agreement from a non-Member owner (such as the assignee of or a successor in interest of a Member that has not been admitted as a Substituted Member) shall accrue to such Member as voting Interest.

7.2 No Encumbrance. No Member shall subject his or her Interest to any lien, charge, encumbrance, mortgage, security interest or similar rights of others, without the prior written consent of all other Members.

7.3 Transfer of Right to Distributions. Notwithstanding the foregoing, during his or her life, a Member may assign, in whole or in part, his or her rights to receive Company distributions, with the consent of the Managers.

7.4 Procedure for Substitution of Assignee as Member.

(a) No assignee of the whole or any portion of a Member's Interest in the Company shall become a Substituted Member unless:

(i) The assignor transfers such Interest to the assignee in accordance with the terms of this Agreement and in such a manner as not to preclude the option for assignee to become a Substituted Member;

(ii) The assignee pays to the Company all costs and expenses (including attorney's fees) incurred in connection with such substitution;

(iii) The assignee executes and acknowledges, in form and substance satisfactory to the Managers, all instruments which the Managers shall deem necessary or desirable to effectuate such substitution and to confirm the agreement of the assignee to be bound by all the terms and provisions of this Agreement;

(iv) The assignee obtains the written consent of the Managers; and

(v) The assignee shall, as a condition of holding such Interest, within thirty (30) days after notice of demand from the Managers, (A) obtain the approval, as a full substitute guarantor, from any creditor of the Company and/or other party designated by the Managers which has been given a personal guarantee of Guaranteed Obligations by the Member for which the assignee would be the successor in Interest, and (B) execute a written agreement(s) satisfactory to the Managers and such creditor(s) or other party acknowledging that such assignee shall be bound by, and take the applicable Interests subject to, the obligations, conditions and restrictions of such guarantee.

(b) An assignee who does not become a Substituted Member has no right to require any information or account of the Company transactions or to inspect the Company books. He or she shall only be entitled to receive the share of the profits or other distributions, or the return of the contribution, to which his or her assignor would otherwise be entitled. The failure or refusal of the Members to grant consent to the substitution of an assignee as a Member shall not prevent the assignee from receiving Company distributions attributable to the assigning Member, even though such assignee shall not be deemed to be a Member, provided (i) the assignee has properly received such assignment pursuant to the terms of this Agreement, (ii) the instrument of assignment is in form and substance satisfactory to the Managers and assignee has complied with all other applicable provisions of this Agreement, (iii) a duly executed and acknowledged counterpart of such instrument is filed with the Company, and (iv) the assignee is not, except as otherwise provided below, a person below the age of eighteen (18) years or a person theretofore adjudged to be incompetent. Any attempted assignment to a person below the age of eighteen (18) years or to a person theretofore adjudged to be incompetent shall be void and ineffectual and shall not bind the Company except to the extent such assignment is duly made to a trustee, guardian, custodian or personal representative for the assignee.

7.5 Distributions and Allocations in Respect to Transferred Interests. If any Interest in the Company is Transferred during any fiscal year in compliance with the provisions of this Agreement, all items of Profit and Loss, each item thereof and all other items attributable to such Interest in the Company for such fiscal year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the fiscal year in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Managers. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that if the Company does not receive a notice stating the date such Interest in the Company was Transferred and such other information as the Managers may reasonably require within thirty (30) days after the end of the fiscal year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the party who was the owner of the Transferred Interest, according to the books and records of the Company, on the last day of the fiscal year during which the Transfer occurred. Neither the Company nor the Managers shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 7.5, whether or not the Company or the Managers has knowledge of any Transfer of ownership of any Interest in the Company.

7.6 Withdrawing Member. A Withdrawing Member shall cease to be a Member as of the effective date of the applicable Withdrawal Event and such Withdrawing Member shall cease to have any rights or privileges, but (a) such Withdrawing Member shall not be released or discharged from any of the obligations of a Member under the provisions of this Agreement, unless provided otherwise by the written consent of the Managers, and (b) such Withdrawing Member shall be entitled to continue to receive his or her share of the profits or other distributions of the Company unless and until such Withdrawing Member's Membership Interest is purchased as provided in Section 7.7.

7.7 Purchasing of Withdrawing Member's Membership Interest.

(a) After the occurrence of a Withdrawal Event, the Company and/or the Members shall have the option to purchase all of the Withdrawing Member's Interest at a price determined as set forth below. The Company's option shall be exercised by written notice to the Withdrawing Member or his or her successor in interest, as the case may be, given within thirty (30) days after the Managers provide notice to the Members of the Withdrawal Event; provided, the closing of such purchase shall not occur until the purchase price of the Withdrawing Member's Interest has been determined as set forth below. If the Company does not so exercise its option within such time period, any or all of the Members may exercise their option by giving written notice thereof to the Withdrawing Member or his or her successor in interest and the Managers at any time after the first to occur of (i) the expiration of the Company's option or (ii) the Company giving written notice that it declines to exercise its option. In the event that more than one Member desires to purchase the Withdrawing Member's Interest, such Interest and associated purchase price shall be divided among such Members proportionate to the percentage that each of such Member's Interest represents to the aggregate of all such Members' Interest.



(b) Upon the exercise of any option under Section 7.7(a), the Company shall promptly determine the purchase price of the Withdrawing Member's Interest. The purchase price for a Withdrawing Member's Interest shall be calculated as indicated below (the "Purchase Price Calculation" or "PPC"):

- (i) If DSCR less than 1.15, then  $PPC = ((85\% \times EV) \times PSD) \times I$
- (ii) If DSCR of 1.15 to 1.25, then  $PPC = ((90\% \times EV) \times PSD) \times I$
- (iii) If DSCR of 1.26 to 1.35, then  $PPC = ((95\% \times EV) \times PSD) \times I$
- (iv) If DSCR greater than 1.35, then  $PPC = (EV \times PSD) \times I$

"DSCR" means the debt service coverage ratio of the Partnership as determined by the Managers.

"EV" means the estimated fair market value of the Company as determined by the Managers.

"PSD" means a 80% in order to reflect a 20% private sale discount.

"I" means the percentage Interest proposed for sale

(c) Each Withdrawing Member hereby irrevocably appoints each Manager, any of whom may act, as his or her attorney-in-fact, which appointment shall not expire upon such Member's disability, for the specific purpose of executing such documents as the Managers deem necessary to memorialize any Transfer pursuant to this Section 7.7.

## ARTICLE 8 TERMINATION

8.1 Events Causing Dissolution and Winding Up. Any of the following events shall cause the dissolution and winding up of the Company:

(a) The consent in writing to do so by either all of the Managers or Members owning 75% of the Members' Interests in the Company.

(b) Any other event causing dissolution under the Act, except as provided in Section 8.2.

8.2 Election to Continue Company. An event set forth in Section 8.1(b) shall not result in the dissolution, winding up and termination of the Company if, within ninety (90) days after the occurrence of that event, the Managers or a Majority in Interest of the remaining Members elect to continue the Company.

8.3 Winding Up. Upon the occurrence of an event set forth in Section 8.1, and in the absence of an election under Section 8.2, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. No Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs. The Managers shall

be responsible for overseeing the winding up and dissolution of the Company and shall take full account of the Company's liabilities and assets. The assets shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a) First, to the payment and discharge of all of the Company's debts and liabilities to creditors other than Members;

(b) Second, to the payment and discharge of all of the Company's debts and liabilities to Members; and

(c) The balance, if any, to the Members in accordance with the positive value in their Capital Accounts, after giving effect to all contributions, distributions, adjustments and allocations for all periods.

When all assets of the Company, after payment of or due provision for the payment of all Company liabilities, have been distributed among the Members as provided in this Agreement, the Company shall terminate and the Members shall execute and file a certificate appropriate to indicate such termination.

8.4 Compliance with Timing Requirements of Regulations. In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article 8 to the Members who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Member has a deficit balance in his or her Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever.

8.5 Deemed Distribution and Recontribution. Notwithstanding any other provision of this Article 8, in the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) but no event set forth in Section 8.1 has occurred, the assets of the Company shall not be liquidated, the Company's liabilities shall not be paid or discharged, and the Company's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Company shall be deemed to have distributed the Property in kind to the Members, who shall be deemed to have assumed and taken subject to all Company liabilities, all in accordance with their respective Capital Accounts. Immediately thereafter, the Members shall be deemed to have recontributed the assets in kind to the Company, which shall be deemed to have assumed and taken subject to all such liabilities.

## **ARTICLE 9 AMENDMENTS**

This Agreement is subject to amendment only by the written consent of Members owning 75% of the Interests in the Company held by the Members. Each Member hereby irrevocably appoints each Manager, any of whom may act, as his or her attorney-in-fact, which appointment shall not expire upon such Member's disability, for the specific purpose of executing such

documents as the Managers deem necessary to memorialize any amendment made pursuant to the first sentence of this Article.

## **ARTICLE 10 TAX ALLOCATIONS**

10.1 Special Allocations. The following special allocations shall be made in the following order, if and only to the extent required to make the regular allocations set forth herein comply with the provisions of Section 704(b) of the Code and the Regulations promulgated thereunder:

(a) Company Minimum Gain Chargeback. Notwithstanding any other provision of Article 4 or 10, if there is a net decrease in Company Minimum Gain during any Company fiscal year or other period, each Member shall be specially allocated items of Company income and gain for such year or other period (and, if necessary, subsequent years), in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to the various Members pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 10.1(a) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith. To the extent permitted by said Section of the Regulations and for purposes of this Section 10.1 only, each Member's Adjusted Capital Account Deficit shall be determined prior to any other allocations pursuant to Articles 4 or 10 with respect to such fiscal year and without regard to any net decrease in Member Minimum Gain during such fiscal year.

(b) Member Minimum Gain Chargeback. Notwithstanding any other provision of Articles 4 or 10 except Section 10.1(a), if there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year or other period, each Member with a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such year or other period (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to the various Members pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 10.1(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 10.1(c) shall be made only if and to the extent that such Member

would have an Adjusted Capital Account Deficit after all other allocations provided for in Articles 4 or 10 have been tentatively made as if this Section 10.1(c) were not in this Agreement. This Section 10.1(c) is intended to comply with the “qualified income offset” requirement in Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

(d) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any Company fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 10.1(d) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in Articles 4 or 10 have been tentatively made as if Section 10.1(d) and Section 10.1(c) hereof were not in this Agreement.

(e) Nonrecourse Deductions. Nonrecourse deductions for any fiscal year shall be allocated among the Members in accordance with their Interests.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of his or her Interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations. If a Member so requests, the Company shall file an election under Code Section 754 to adjust the basis of Company assets as provided in the preceding sentence, in the event of a distribution of one or more Company assets or the Transfer of an Interest in the Company. The cost of the Section 754 election (including all accounting fees and expenses) shall be borne by the Member requesting the election.

10.2 Curative Allocations. The Allocations set forth in Section 10.1 hereof (the “Regulatory Allocations”) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations will be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section 10.2. Therefore, notwithstanding any other provisions of Article 4, the Managers shall make such offsetting special deductions in whatever manner they determine appropriate, so that, after offsetting allocations are made, each Member’s Capital Account balance is to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all

Company items were allocated pursuant to Article 4 hereof. In exercising their discretion under this Section 10.2, the Managers shall take into account future Regulatory Allocations under Section 10.1 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section 10.1.

10.3 Code Section 704(c). In accordance with Code Section 704(c) and the 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 Gross Asset Value.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 2.12 hereof, 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 Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Members in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 10.3 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing Capital Accounts or shares of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

10.4 Economic Consistency. The Members intend that the tax allocation provisions of Article 10 shall result in final Capital Account balances of the Members that permit liquidating distributions to be made in accordance with final Capital Account balances under Section 8.3.

The tax allocation provisions of Article 10 shall be applied (and amended) by the Managers, if and to the extent necessary, to produce that result even if those amendments require the amendment of prior tax returns of the Company to do so.

## **ARTICLE 11 BOOKS AND RECORDS**

11.1 Company Books. The Managers shall maintain at the principal office of the Company complete and accurate books of account, in which shall be entered, fully and accurately, each and every transaction of the Company and the records required to be maintained by the Company pursuant to the Act. The books shall be kept according to such generally accepted method of accounting as the Members may select, and the fiscal year of the Company shall be the calendar year. Within ninety (90) days of the end of each fiscal year of the Company, each Member shall be provided with a balance sheet and income statement reflecting such fiscal year's operations. A Schedule K-1 shall be delivered to each Member after the end of each fiscal year of the Company so that each Member may timely file his or her personal income tax return.

11.2 Inspection of Books. The Members shall each have the right, at their own expense, upon reasonable notice, to examine the books of account of the Company for any reasonable purpose, provided that any such examination shall be conducted during normal business hours and without disruption of the Company's business.

11.3 Checking Accounts. The Company shall maintain a checking account or accounts at such bank or banks as shall be most conducive to the proper conduct of the business of the Company. Checks drawn on any such account shall be valid only when signed by one of the Managers.

11.4 Partnership Representative.

(a) Designation and Authority of the Tax Matters Manager. Brian Staub is designated as the Company's "Tax Matters Manager." The Tax Matters Manager is authorized to represent the Company in connection with all examinations of the Company's affairs by tax authorities or any administrative or judicial tax proceedings with respect to the Company, and to expend Company funds for professional services and costs associated therewith, and the Company will reimburse the Tax Matters Manager for any such costs or other costs associated with carrying out its role as Tax Matters Manager that it incurs directly. The Tax Matters Manager will have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any tax authority with respect to the Company and whether the Company will make any elections with respect to any tax assessment or proceeding.

(b) To the extent that the Company is an "eligible partnership" (as such term is used in Regulations § 301.6221(b)-1) and is permitted to make an election under Code Section 6221(b) and Regulations § 301.6221(b)-1 (an "Opt-Out Election"), the Company shall make an Opt-Out Election on its federal income tax return for each taxable year of the Company to elect out of the application of the new partnership audit laws and procedures set forth in Subchapter C of Chapter 63 of Subtitle F of the Code, as modified by Section 1101 of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74, and including any successor statutes thereto or Regulations promulgated or official guidance issued thereunder (the "Partnership Audit Procedures").

(c) For each taxable year of the Company for which no Opt-Out Election is made, the Company shall designate, pursuant to Regulations § 301.6223-1 (and any successor Regulations and other applicable guidance) on its United States federal income tax return for each such taxable year of the Company, the Tax Matters Manager as the "partnership representative" for the Company (the "Partnership Representative"), and shall make such corresponding designations under any corresponding provisions of applicable foreign, state, or local tax law. To the extent that the Tax Matters Manager is not an individual, the Tax Matters Manager shall select any Person to serve as its "designated individual" pursuant to the Partnership Audit Procedures. The Tax Matters Manager, in its capacity as the Partnership Representative, shall (i) determine all matters with respect to any examination of the Company by any taxing authority (including, without limitation, the allocation of any resulting taxes, penalties, and interest among the Members and whether to make an election under Code § 6226 (and any similar provision under applicable foreign, state, or local tax law) with respect to any audit or other examination of the Company) and, (ii) notwithstanding anything herein to the contrary, make such elections as it deems appropriate pursuant to the provisions of the Partnership Audit Procedures.

(d) Each Member and former Member agrees to cooperate, and to cause its direct and indirect owners to cooperate, with the Partnership Representative and to do or refrain from doing any or all things reasonably requested by the Partnership Representative with respect

to the conduct of any tax proceedings, in each case regardless whether then a Member or after ceasing to be a Member. Any deficiency for taxes imposed on any Member or former Member or its direct or indirect owners (including penalties, additions to tax, or interest imposed with respect to such taxes) will be paid by such Member or former Member or its direct or indirect owners as applicable, and if required to be paid (and actually paid) by the Company, such Member or former Member shall indemnify the Company for such amounts within thirty days of such payment by the Company, in each case regardless of whether then a Member or after ceasing to be a Member.

(e) At the request of the Partnership Representative, in connection with an adjustment of any item of income, gain, loss, deduction, or credit of the Company or any subsidiary entity in which the Company has an interest, directly or indirectly, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, promptly file one or more amended tax returns in the manner contemplated by Code § 6225(c) (and any Regulations or official guidance relating thereto, and, if applicable, any corresponding or similar provisions under state or local law) and pay any tax due with respect to such returns. If the Partnership Representative makes an election for the Company pursuant to Code § 6226 with respect to an imputed underpayment, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, comply with the requirements under such section (and any Regulations or official guidance relating thereto). At the request of the Partnership Representative, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, provide the Partnership Representative and the Company with any information available to such Member or former Member (or its direct or indirect owners or representatives) and with such representations, certificates, or forms relating to such Member or former Member (or its direct or indirect owners or representatives) and any other documentation, in each case, that the Partnership Representative determines, in its reasonable discretion, are necessary to modify an imputed underpayment under Code § 6225(c) or the Regulations or other official guidance thereunder. In the event that any imputed underpayment is paid or payable by the Company under Code § 6225(a)(1), each Member and former Member shall indemnify the Company in an amount equal to such Member's or former Member's share (as determined by the Partnership Representative with the advice of the Company's tax counsel) of the imputed underpayment and any associated interest and penalties) paid or payable by the Company; provided, however, that the Partnership Representative may determine, in its discretion, to allocate the burden of such amount to such Member without requiring payment by such Member to the Company.

(f) Each Member's obligations to comply with the requirements of this Section 11.4 shall survive the Member's transfer of all or any portion of the Member's interest in the Company, otherwise ceasing to be a Member and/or the termination, dissolution, liquidation, and winding up of the Company, to the extent applicable.

(g) Any Person acting as a Tax Matters Manager, Partnership Representative or designated individual pursuant to this Section 11.4 shall, when acting in such capacity, be deemed to be a Manager for purposes of the Virginia Limited Liability Company Act, and as such their liability shall be eliminated to the same extent as Manager's liability is eliminated under this Agreement and they shall be entitled to indemnification to the same extent as a Manager is entitled to indemnification under this Agreement.

**ARTICLE 12**  
**INDEMNIFICATION AND EXCULPATION OF MANAGERS AND MEMBERS**

12.1 Indemnification. The Managers and the Members shall be indemnified and held harmless by the Company from any liability resulting from any act performed by or omission made by them on behalf of the Company (except for acts or omissions of gross negligence or willful misconduct) to the fullest extent that a director or officer of a stock corporation may be indemnified and held harmless under Chapter 9 of Title 13.1 of the Code of Virginia of 1950, as amended.

12.2 Exculpation. The Managers and the Members shall not be liable to the Company or to any Member for or as a result of any act, omission or error in judgment that was taken, omitted or made by the Managers or the Members in accordance with the standards established by Section 13.1-1024.1 of the Act.

**ARTICLE 13**  
**MISCELLANEOUS**

13.1 Notice. Any notice provided for in this Agreement to a Member shall be deemed given if sent by electronic mail, hand delivery, overnight delivery service, or by registered or certified mail to such Member at the address shown for such Member on the books and records of the Company or at such other address as may have been given in writing to the Company, at its principal office by registered or certified mail, return receipt requested.

13.2 Entire Agreement. This Agreement contains the entire agreement among the parties with regard to the operations of the Company and supersedes any prior understanding and/or written or oral agreements among them respecting the subject matter hereof.

13.3 Severable. In the event any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

13.4 Governing Law. This Agreement is made in, and shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia.

13.5 Captions. Any title or captions contained in this Agreement are for convenience only, and shall not be deemed a part of the context of this Agreement.

13.6 Interpretation. When the context in which the words are used in this Agreement indicates that such is the intent, words in the singular number shall include the plural and vice versa, and words in the masculine gender shall include the feminine and neuter genders and vice versa.

13.7 Successors. This Agreement shall be binding upon the parties hereto, and, if and when assigned in accordance with the provisions hereof, their respective assigns, successors in interest, personal or legal representatives, estates, heirs, and legatees.

13.8 Waiver of Compliance. Any failure of any Member to comply with any obligation, covenant, agreement or condition herein may be waived by other parties hereto, but such waiver

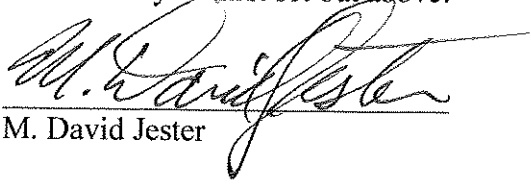


or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.


13.9 Counterparts. This document may be executed in several facsimile counterparts and such counterparts, when taken together, shall be as valid and binding and have the same effect, as if all signatures were original and on one document.


**[SIGNATURE PAGE FOLLOWS]**

WITNESS the following signatures and seals as of the date and year first set out above:

  
M. David Jester

\_\_\_\_\_  
Scott A. Troutman

  
Christian H. Gardner

  
Brian L. Staub

**EXHIBIT A  
TO  
OPERATING AGREEMENT  
OF  
WILLIAMSBURG SENIOR GP, LLC**

<b><u>MEMBER NAME AND ADDRESS</u></b>	<b><u>INITIAL CAPITAL CONTRIBUTION</u></b>	<b><u>INTEREST</u></b>
M. David Jester 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		40%
Scott A. Troutman 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		20%
Christian H. Gardner 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		20%
Brian L. Staub 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		20%

**OPERATING AGREEMENT  
OF  
MDC WILLIAMSBURG, LLC**

**THIS OPERATING AGREEMENT** is made as of July 17, 2020, by and among the undersigned persons (collectively, the “Members”).

**WHEREAS**, Williamsburg Senior, LP (the “Partnership”) has been established for the purpose of developing, constructing and owning an affordable apartment project for residents 62 years of age or older located in York County, Virginia (the “Project”) to be financed in part by low income housing tax credits pursuant to Section 42 of the Federal Internal Revenue Code (“Tax Credits”) and by tax-exempt bonds; and

**WHEREAS**, the Members have formed a limited liability company under the laws of the Commonwealth of Virginia known as MDC Williamsburg, LLC (the “Company”), which is intended to serve as the limited partner of the Partnership; and

**WHEREAS**, the Members desire to, and do hereby, adopt the provisions of this Operating Agreement as the expression of their mutual undertakings and agreements with respect to the operation of the Company; and

**WHEREAS**, Williamsburg Senior GP, LLC has been formed a limited liability company under the laws of the Commonwealth of Virginia, which is intended to serve as the General Partner of the Partnership; and

**WHEREAS**, the Company will enter into a Partnership Agreement with Williamsburg Senior GP, LLC relating to the ownership of the Project.

**NOW, THEREFORE**, intending to be legally bound, and in consideration of the mutual covenants and conditions set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

**ARTICLE 1  
THE COMPANY**

1.1 Organization; Effective Date. The parties have formed the Company pursuant to the Act, as defined below, by filing Articles of Organization with the Virginia State Corporation Commission. The effective date of the formation of the Company is July 17, 2020.

1.2 Name. The name of the Company is MDC Williamsburg, LLC, and the business of the Company shall be conducted under that name.

1.3 Principal Office and Records. The principal office of the Company, which will also be the place at which will be kept the records required to be maintained by the Company under the Act, shall be located at 308 35th Street, Suite 101, in the City of Virginia Beach, Virginia 23451, unless such office is changed by action of the Managers pursuant to this Agreement.

1.4 Registered Agent and Registered Office. The initial registered agent of the Company is Timothy O. Trant II, who is a resident of Virginia and a member of the Virginia State Bar and whose post office address is 11815 Fountain Way, Suite 400, Newport News, Virginia 23606, which said address shall also be the registered office of the Company required by the Act.

1.5 Purpose of the Company. The Company has been formed and will be operated for the purpose of serving as the limited partner of the Partnership, which will develop, construct, and own the Project.

## **ARTICLE 2 DEFINED TERMS**

Certain terms used in this Agreement shall have the following meanings:

2.1 “Act.” The Virginia Limited Liability Company Act, as contained in Chapter 12 of Title 13.1 of the Code of Virginia of 1950, as the same may be amended from time to time.

2.2 “Adjusted Capital Account Deficit.” With respect to any Member, the deficit balance, if any, in such 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 amount which such Member is obligated to restore under any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1), 1.704-1(b)(2)(ii)(c) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

2.3 “Agreement.” This Operating Agreement as the same may be amended from time to time.

2.4 “Capital Account.” With respect to any Member, the Capital Account maintained for such Member in accordance with Section 3.7.

2.5 “Capital Contributions.” With respect to any Member, the total amount of money or property contributed to the Company with respect to the Company Interest held by such Member. Except as provided in Section 8.5, no in kind contributions of property other than cash shall be accepted by the Company.

2.6 “Code.” The Internal Revenue Code of 1986, as amended.

2.7 “Company.” MDC Williamsburg, LLC, a Virginia limited liability company.

2.8 “Company Minimum Gain.” The amount determined under Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

2.9 “Depreciation.” For each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction determined for federal income tax purposes, allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value 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.

2.10 “Disability.” Shall mean the total permanent disability of a Member or Manager such that the Member or Manager is unable to perform the essential functions of his or her position as Member or Manager, with or without reasonable accommodation, which said disability shall be determined as follows: (i) the Managers make such a finding, by at least a two-thirds majority vote of such Managers; or (ii) a Court of appropriate jurisdiction in a final adjudication so determines; or (iii) at least fifty-one percent (51%) of the Managers, and the purportedly disabled Member or Manager or his or her respective legal representative, each have named a physician to examine the disabled Member or Manager and the said physicians determine that the disabled Member or Manager suffers from a "total permanent disability", or in the event the two physicians cannot agree, a third physician named by the said two physicians determines, in consultation with the other two physicians, that the disabled Member or Manager suffers from a "total permanent disability”.

2.11 “General Partner.” The general partner of the Partnership.

2.12 “Gross Asset Value.” With respect to any asset, the asset’s adjusted basis for federal income tax purposes (i.e., the initial cost basis for the asset adjusted for various tax-related items such as depreciation, capital investment, etc.), except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Members, as of the following times: (i) the acquisition of an additional Interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an Interest in the Company if the Members reasonably determine that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members in the Company; and (iii) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(c) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section

734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this Section 2.12(d) to the extent the Members determine that an adjustment pursuant to Section 2.12(b) is necessary or appropriate in connection with such transaction.

If the Gross Asset Value of an asset has been determined, or adjusted pursuant to Section 2.12(a), 2.12(b) or 2.12(d) hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

2.13 “Interest.” When used in the context of a specific percentage of profits, losses, capital or other items to be allocated or a percentage of distributions to be made, Interest means the percentage ownership interest of a Member (or a non-Member assignee or successor in interest thereof as may be provided for in this Agreement) in the Company at any particular time as set forth on Exhibit A. In other contexts, “Interest” means all proprietary rights of the Member in the Company, including, without limitation, his or her Interest and his or her rights to profits, losses, distributions, and capital.

2.14 “Majority in Interest.” Members holding more than fifty percent (50%) of the “Relevant Interests in the Company” (as hereinafter defined), including both profits and capital interests calculated separately. The “Relevant Interests in the Company” shall in all instances be the aggregate Interests of all of the Members of the Company, except in the following cases:

(a) When written consent of “other Members” is required prior to Transfer of a Member’s Interest pursuant to Article 7 of this Agreement, the “Relevant Interests in the Company” shall be aggregate Interests of all Members of the Company excluding the Interest which is the subject of the Transfer.

(b) When written consent of “remaining Members” is required in order to elect to continue the Company following an event causing dissolution pursuant to Article 8 of this Agreement, the “Relevant Interests in the Company” shall be the aggregate Interests of all the remaining Members of the Company.

For purposes of this Section 2.14, profits interests are those Interests defined in Section 2.13 and capital interests, as of any date, are the ratios (expressed as a percentage) of each Member’s Capital Account to the aggregate Capital Accounts of all relevant Members.

2.15 “Managers.” A person or persons appointed pursuant to Section 6.1, and any person or entity appointed as successor managers under this Agreement.

2.16 “Member Minimum Gain.” An amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

2.17 “Member Nonrecourse Debt.” A nonrecourse debt of the Company as set forth in Section 1.704-2(b)(4) of the Regulations.

2.18 “Member Nonrecourse Deductions.” The deductions defined in Section 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

2.19 “Members.” The Members of this Company. All references in this Agreement to a specified percentage of the Members shall mean Members holding the specified percentage of all the Interests then held by the Members.

2.20 “Nonrecourse Debt.” The same as the term “nonrecourse liability” used in Section 1.704-2(b)(3) of the Regulations.

2.21 “Nonrecourse Deductions.” The deductions defined in Section 1.704-2(b)(1) of the Regulations.

2.22 “Partnership.” Williamsburg Senior, LP, a Virginia limited partnership.

2.23 “Partnership Agreement.” The Agreement of Limited Partnership of the Partnership, as the same may be amended.

2.24 “Person.” Any individual, partnership, corporation, trust, or other entity.

2.25 Prime Rate. The prime rate (or base rate) reported in the “Money Rates” column or section of The Wall Street Journal as being the base rate on corporate loans at larger U.S. Money Center banks on the first date on which The Wall Street Journal is published in each month. In the event The Wall Street Journal ceases publication of the Prime Rate, then the “Prime Rate” shall mean the “prime rate” or “base rate” announced by the bank with which the Company has its principal banking relationship (whether or not such rate has actually been charged by that bank). In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers.

2.27 “Profits” and “Losses.” For each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Article 2 shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 2.27 shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 2.12(b) or Section 2.12(c) hereof, the amount of such adjustment shall be taken



into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with Section 2.9 hereof;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the Asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(g) Notwithstanding any other provision of this Article 2, any items which are specially allocated pursuant to Section 10.1 or Section 10.2 hereof shall not be taken into account in computing Profits or Losses.

2.28 "Regulations." The Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as amended from time to time.

2.29 "Substituted Member." Any person or entity admitted to the Company as a Member pursuant to Section 7.4 hereof.

2.30 "Transfer." Any sale, assignment, gift, bequest, disposition, exchange, pledge, encumbrance or other transfer of any kind or description and however made, whether voluntary or involuntary, by death, by divorce, by court decree, operation of law, or otherwise, to include without limitation, any change of ownership in or control of the owner of any Interest in the Company (such as (a) the transfer of membership interest in or stock in an entity which owns Interest in the Company, or (b) the change of the beneficiaries of a trust which owns Interest in the Company).

2.31 "Withdrawal Event." The bankruptcy of a Member (or his/her successor in interest) or affirmative vote or written consent of a majority of the Managers determining that a Member (or his/her successor in interest) engaged in such activity or conduct that is materially adverse to the interests of the Company.

2.33 "Withdrawing Member." A Member (or his/her successor in interest) with respect to whom a Withdrawal Event relates.

### ARTICLE 3 INTERESTS OF MEMBERS AND CAPITAL CONTRIBUTIONS

3.1 Interests of Members and Initial Capital Contributions. The names of the Members, the Interests belonging to each of them, and the initial Capital Contribution of each Member are set forth on Exhibit A. Unless approved in writing in advance by the Managers, only individuals may be Members or Substituted Members of the Company. Accordingly, partnerships, limited liability companies, corporations, trustees/trusts and other forms of ownership may not be Members or Substituted Members of the Company without the prior written consent of the Managers.

3.2 Additional Capital Contributions. The Members shall not be required to make any additional Capital Contributions to the Company except upon the written call of the Managers, specifying the amount of the additional Capital Contribution and the specific purpose for which such additional Capital Contribution shall be used, which purpose must be to satisfy the obligations of the Company to the Partnership or as may otherwise be determined by the Managers. Any such additional Capital Contribution shall be in proportion to each Member's Interest in the Company.

(a) The Managers shall have the right to borrow funds to cover any call for capital made under this Section to which a Member has not responded, and such amount borrowed shall not be deemed a Capital Contribution to the Company but, rather, a debt due by any Member (an "Indebted Member") who has failed to contribute his or her pro rata share directly to the Company.

(b) Any advance of money to the Company by a Member in response to a call for capital or otherwise, and which advance is in excess of that Member's pro rata share of the funds called for, shall not be deemed a Capital Contribution to the Company but, rather, a debt due by any Member who has failed to contribute his or her pro rata share (an "Indebted Member") to the Member who has made such advance (a "Lending Member").

(c) Any debt incurred by an Indebted Member shall be payable on demand, or at such other time as the Managers (in the case of a debt incurred pursuant to Section 3.2(a)) or Lending Member (in the case of a debt incurred pursuant to Section 3.2(b)) shall designate and shall bear interest at the rate of 3% plus the Prime Rate; provided, however such rate shall not be higher than the highest rate permitted between contracting parties under the usury laws of Virginia.

(d) So long as the debt of any Indebted Member is outstanding, all distributions to which such Indebted Member would otherwise be entitled shall be distributed to the Company or to the Lending Member to whom such Indebted Member is indebted, to be applied to the reduction of such indebtedness, first to interest and then to principal.

(e) If any indebtedness is not paid in full within thirty (30) days after proper demand for the payment thereof, the Company or any Lending Member shall have all of the rights and remedies, at law or in equity, which a creditor may have against a debtor, which rights and remedies shall not be stayed or abated on account of the fact that the Company's affairs have not been wound up, nor shall such Lending Member's rights be limited to having an accounting of the Company's affairs.

(f) If any indebtedness incurred pursuant to Section 3.2(b) is not paid in full within thirty (30) days after proper demand for the payment thereof, any Lending Member shall

have the option to elect, by written notice to the Indebted Member and to the Company, at any time prior to the full payment of such indebtedness, that the Indebted Member shall be deemed to have transferred all of his or her Interest in the Company to the Lending Member, or if there is more than one Lending Member, to such Lending Member in proportion to the indebtedness due such Lending Member by the Indebted Member, and such transfer of Interest shall be in lieu of the remedies available under Section 3.2(e) and shall constitute full payment of all monies due in respect of the debt to such Lending Member.

(g) In the event the Company or any Lending Member elects to pursue his or her rights and remedies against the Indebted Member, the Indebted Member shall pay the Company's or such Lending Member's reasonable attorney's fees and court costs incurred in addition to the amount of the aforesaid indebtedness.

3.3 Interest. No interest shall be paid on any Capital Contribution.

3.4 Withdrawals. Except as otherwise provided in this Agreement, no Member shall resign from the Company or make any withdrawals therefrom without the consent of the Managers. Under circumstances requiring a return of any Capital Contribution, no Member shall have the right to receive property other than cash except as may be specifically provided in Article 8.

3.5 Limited Liability. No Member shall be liable for the debts, liabilities, contracts or any other obligations of the Company. Except as otherwise provided by applicable state law, a Member shall be liable only to make any additional Capital Contributions which are called for strictly in accordance with the provisions of Section 3.2. The Managers shall not have any personal liability for the repayment of any Capital Contributions of any Member. No person not a party to this Agreement shall be deemed a third party beneficiary hereof, and no such person shall have the right to enforce any provision of this Agreement against any Member.

3.6 Guaranty of Company Obligations. Upon the request of the Managers, each Member shall be required to provide his or her personal guarantee to any lender, or other party designated by the Managers that (a) is financing the Company's and/or the Partnership's indebtedness for borrowed money, and/or (b) otherwise requires such assurance as consideration for its business relationship with the Company and/or the Partnership (collectively, the "Guaranteed Obligations"). If a Member is subsequently called upon by such person or other creditor holding such Guaranteed Obligations to pay on his or her guarantee and accordingly does so such Member shall be deemed a Lending Member and shall be entitled to indemnification from the other Members for the amount by which the portion of the Guaranteed Obligations that the Lending Member actually pays exceeds his or her share of the Guaranteed Obligations then being paid out of the personal funds of all Members ("Discharged Guaranteed Obligations"). (A Member's "share" of the Guaranteed Obligations or Discharged Guaranteed Obligations, as the case may be, shall be determined by multiplying (i) the Interest then held by such Member, by (ii) the amount of Guaranteed Obligations or Discharged Guaranteed Obligations, as the case may be.) Any and all other Members shall be deemed Indebted Members and shall, within thirty (30) days of the Lending Member's demand therefor, indemnify and reimburse any Lending Member who has paid more than his or her respective share of Discharged Guaranteed Obligations such amount(s) (up to the Indemnifying Members' respective shares of Discharged Guaranteed Obligations) as shall cause each of the Lending Members and the Indebted Members to bear his or

her respective share of the Discharged Guaranteed Obligations. Interest shall accrue on the amount owed at the rate of 3% plus the Prime Rate in effect from time to time (but not higher than the maximum rate legally permitted). Thereafter, any Indebted Member that does not reimburse the Lending Member for his or her proportionate share of the Discharged Guaranteed Obligations, shall be subject to the sanctions and remedies set forth in Section 3.2 in the same manner as a Lending Member would have against an Indebted Member thereunder, which provisions shall apply as though the Lending Member's excess payment under this Section 3.6 were a payment in excess of his or her pro rata share of the funds called for under Section 3.2.

### 3.7 Capital Accounts.

(a) A Capital Account shall be established and maintained for each Member. A Member shall have a single Capital Account, regardless of class of Interests owned by such Member and regardless of the time or manner in which such Interests were acquired.

(b) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Article 10 hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any property distributed to such Member.

(c) To each Member's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Article 10 hereof, and the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

(d) In the event all or a portion of an Interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

(e) In determining the amount of any liability for purposes of Sections 3.7(b) and 3.7(c) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Members shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or Member), are computed in order to comply with such Regulations, the Members may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Article 8 hereof upon the dissolution of the Company. The Members also shall (i) make any adjustments that are necessary or appropriate to maintain equality among the Capital Accounts of the Members and the amount of Company capital reflected on the Company's

balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

#### **ARTICLE 4 PROFITS AND LOSSES**

After giving effect to the allocations set forth in Article 10 hereof, Profits and Losses for any fiscal year shall be allocated among the Members in proportion to their respective Interests. The Losses allocated shall not exceed the maximum amount of Losses that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any fiscal year.

#### **ARTICLE 5 DISTRIBUTIONS**

5.1 Distributions Generally. All distributions, other than in connection with the winding up of the Company subject to Article 8, shall be made in cash and shall be divided among the Members in accordance with their respective Interests as set forth in Exhibit A, subject to Sections 3.2 and 3.6. Distributions shall be made from time to time in such amounts and at such times as the Managers may determine; provided, however, that the aggregate amount of each such distribution shall be that amount which the Managers determine is not required to be retained by the Company to meet the reasonably foreseeable cash requirements and needs of the business and activities of the Company and to establish an adequate reserve for the payment of Company liabilities and contingencies.

#### **ARTICLE 6 MANAGEMENT**

6.1 Managers. The Company's business shall be managed by the Managers, who initially shall be M. David Jester, Scott A. Troutman, and Brian L. Staub. Upon the death, resignation, Disability, or removal of any of the Managers, the Members holding a Majority in Interest may elect a successor or successors as they may determine from time-to-time, provided there is always at least one Manager. A Manager need not be a Member of the Company. One or more Managers shall be entitled to receive a fee or other compensation for serving as Manager of the Company as the Managers may determine from time to time. Additionally, they may charge the Company for all expenses reasonably incurred by them directly in connection with Company business, not including office or other overhead, salaries of administrative personnel, etc. Members shall have the right to remove a Manager at any time for any reason by two-thirds (2/3rds) vote of the Relevant Interests in the Company.

6.2 Management of the Company. Except as provided below, the Managers shall have full charge of the management, conduct and operation of the Company business in all respects and all matters and shall have the authority to do all things and acts of every nature whatever, not illegal or contrary to the provisions of this Agreement, which the Managers shall deem necessary or convenient to achieve the purposes of this Agreement and of the Company. Unless otherwise provided herein, decisions of the Managers shall be based upon a majority vote of the Managers without requirement for notice or meeting, each Manager having one (1) vote. Notwithstanding

the foregoing, any decision or action of the Managers that entails the (i) expenditure of Company resources, or (ii) Company incurring an obligation, which equates to an amount greater than \$25,000.00 shall require the signature of two (2) Managers (but only if there is more than one Manager) or a written consent of a majority of the Managers.

6.3 Proportionate Voting. On any matter requiring action by the Members, Members shall vote in proportion to their respective Interests in the Company as set forth in Exhibit A attached hereto relative to the total of the Interests of all Members entitled to vote.

6.4 Authority of Members; Indemnity. Except as otherwise expressly provided in this Agreement, the Members shall take no part in the operation, management, conduct or control of the property of the Company, and shall have no right or authority, either expressed or implied, to act for or bind the Company, without the prior written authorization of the Managers. If any Member shall, without authority, bind or attempt to bind the Company, such Member shall indemnify the Company for any loss suffered or expense incurred by the Company in connection therewith. Consent of the Members holding a Majority in Interest shall be required in order for the Company to approve the Partnership borrowing money for the purpose (in whole or in part) of utilizing some or all of the proceeds therefrom to make distributions to the Company and/or the General Partner.

6.5 Dealing with Affiliates. The Managers, in their discretion, may engage on behalf of the Company any person, firm or corporation in which they, any Member, or any Affiliate thereof may have an interest, at reasonable and competitive rates of compensation for the performance of any and all services or purchase of goods or other property which may at any time be necessary, proper, convenient, or advisable in carrying on the business and affairs of the Partnership or disposing of some or all of its assets; provided, that the compensation or price therefor shall not exceed those prevailing in arm's length transactions by others rendering similar services in comparable transactions as an on-going activity in the same geographical area. For purposes of this Agreement, an Affiliate shall be with respect to a specified person (1) any person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified person, (2) any person that is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified person or of which the specified person is an officer, partner or trustee, or with respect to which the specified person serves in a similar capacity, (3) any person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified person or of which the specified person is directly or indirectly the owner of 10% or more of any class of equity securities or in which the specified person has a substantial beneficial interest and (4) any spouse or lineal descendant of the specified person.

6.6 Meetings of the Members. Meetings of the Members may be held by in person, telephonically, electronically, or by any other means deemed appropriate by the Managers on not less than twenty-four (24) hours advance notice to all of the Members. Any action required or permitted to be taken at a meeting of the Members, after not less than twenty-four (24) hours advance notice to all of the Members of the action to be taken, may be taken without a meeting if the action is taken by Members holding a Majority in Interests. Such action without meeting shall be evidenced by one or more written consents to be filed with the Company's records.

**ARTICLE 7**  
**ASSIGNMENT OF INTERESTS**

7.1 In General.

(a) No person shall be considered a Member unless named in this Agreement, or unless admitted to the Company as a Substituted Member as provided in this Agreement. No Member, Substituted Member, or assignee or other successor in interest thereto shall, except as provided below, Transfer any Interest in the Company without the prior written consent of the Managers. The Company, the Managers, each Member and any other person having business with the Company need only deal with Members or Substituted Members. They shall not be required to deal with any person by reason of any Transfer by a Member, except as otherwise provided in this Agreement. As provided in Section 3.1, unless approved in writing in advance by the Managers, only individuals may be Members or Substituted Members of the Company. Partnerships, limited liability companies, corporations, trustees/trusts and other forms of ownership may not be Members or Substituted Members of the Company without the prior written consent of the Managers. Notwithstanding any other provision of this Agreement, except for the Transfer of Interests between Members or as otherwise may be approved by the Managers, no Transfer of Interest in the Company shall result in a division of the Interest owned by the transferor (i.e., no Transfer of Interest shall be for less than 100% of the Interest owned by such transferor, and such Transfer of Interest may only be to a single individual, trust, or limited liability company). Any purported Transfer that violates the terms of this Section 7.1 shall be void ab initio. Any legal expense incurred in enforcing the foregoing provisions may be offset by the Company against any distribution to which the purported assignor or assignee may otherwise be entitled. In the absence of the substitution of a Member for an assigning, deceased, or dissolved Member, any payment to a Member, or to his or her successors, executors or administrators, shall acquit the Company of all liability to any other person who may be interested in such payment by reason of an assignment by the Member or by reason of his or her death or dissolution.

(b) Upon the death or dissolution of a Member, the estate, executor(s), administrator(s), personal legal representative(s), trustee(s), designated transfer on death beneficiary, or other successor in interest of such Member, as determined under applicable law, may succeed to such deceased/dissolved Member's Interest in the Company as an assignee in accordance with the provisions of Section 7.1(d) below; provided such Transfer of Interest is (i) to another Member, and/or (ii) for 100% of the Interest owned by such Member (excluding any Transfer of Interest to an existing Member or Members), and to a single individual, trust, or limited liability company. Any purported Transfer of Interest upon the death or dissolution of a Member or upon the death or dissolution of an assignee or other successor in interest to a Member, that is not (1) to another Member, and/or (2) for 100% of the Interest owned by such Member or assignee or other successor in interest to a Member (excluding any Transfer of Interest to an existing Member or Members), and to a single individual, trust, or limited liability company, shall be considered a Withdrawal Event.

(c) If a Member or an assignee thereof or other successor in interest thereto desires to sell all or any portion of his or her Interest (an "Offeror"), then such Offeror may do so; provided (i) any such sale and resulting Transfer is subject to the terms of this Agreement, (ii) such sale is subject to the satisfaction of, in the Managers' discretion, any approvals required by

creditors of the Company or the Partnership, including any conditions of such approvals, and (iii) before making any such sale, the Offeror must first give the other Members notice (with a copy to the Managers), specifying in writing the price, conditions and terms upon which the Offeror is willing to sell such Interest. The other Members shall have the option to purchase all of the offered Interest upon the conditions and terms set forth in the notice and for a price which is the lesser of that contained in the notice or the amount determined by the Purchase Price Calculation (“hereinafter defined”), in the manner described below:

(i) The other Members shall have thirty (30) days from the date of the notice within which to elect to purchase all of the offered Interest. The option may be exercised by giving notice to the Offeror and Managers within such thirty (30) day period. If more than one Member elects to purchase the Offeror’s Interest, then such Members may purchase the offered Interests in proportions that their respective Interests bear to the aggregate Interests of all purchasing Members, unless they otherwise agree. The closing of the purchase shall be not more than ninety (90) days from the date of the notice from the Offeror.

(ii) If the Members do not elect to purchase all of the offered Interests, then the Offeror may sell such Interest, to which the Members have not committed, at a price not below nor upon other terms more advantageous to the purchaser than the price and terms contained in the notice from the Offeror. If such sale is not made and consummated within ninety (90) days after the date of the notice from the Offeror, the Offeror may not thereafter sell or otherwise dispose of any of his or her Interest without again complying with this Section.

(d) Notwithstanding any other provision of this Agreement, unless and until established as a Substituted Member in accordance with the terms of this Agreement, the assignee of or other successor in interest to any Interest in the Company shall not be a Member and shall only be entitled to receive the share of the profits or other distributions, or the return of the contribution, to which his or her assignor or predecessor in interest would otherwise be entitled, but shall otherwise be subject to the terms, conditions and restrictions of this Agreement as if a Member, to include without limitation the obligation to make capital contributions as may be called for in accordance with the terms of this Agreement. Notwithstanding any other provision of this Agreement, as a condition to the right to receive any distribution or payment hereunder, the assignee of or other successor in interest to any Interest in the Company shall, within ten (10) days after notice of demand from any Manager, execute a written agreement(s) satisfactory to the Manager(s) acknowledging, among other things, that such assignee of or other successor in interest to any Interest in the Company shall be bound by the obligations, conditions and restrictions of this Agreement as the same applies to Members.

(e) The Transfer any Interest to an existing Member in accordance with the terms of this Agreement from a non-Member owner (such as the assignee of or a successor in interest of a Member that has not been admitted as a Substituted Member) shall accrue to such Member as voting Interest.

7.2 No Encumbrance. No Member shall subject his or her Interest to any lien, charge, encumbrance, mortgage, security interest or similar rights of others, without the prior written consent of all other Members.



7.3 Transfer of Right to Distributions. Notwithstanding the foregoing, during his or her life, a Member may assign, in whole or in part, his or her rights to receive Company distributions, with the consent of the Managers.

7.4 Procedure for Substitution of Assignee as Member.

(a) No assignee of the whole or any portion of a Member's Interest in the Company shall become a Substituted Member unless:

(i) The assignor transfers such Interest to the assignee in accordance with the terms of this Agreement and in such a manner as not to preclude the option for assignee to become a Substituted Member;

(ii) The assignee pays to the Company all costs and expenses (including attorney's fees) incurred in connection with such substitution;

(iii) The assignee executes and acknowledges, in form and substance satisfactory to the Managers, all instruments which the Managers shall deem necessary or desirable to effectuate such substitution and to confirm the agreement of the assignee to be bound by all the terms and provisions of this Agreement;

(iv) The assignee obtains the written consent of the Managers; and

(v) The assignee shall, as a condition of holding such Interest, within thirty (30) days after notice of demand from the Managers, (A) obtain the approval, as a full substitute guarantor, from any creditor of the Company and/or other party designated by the Managers which has been given a personal guarantee of Guaranteed Obligations by the Member for which the assignee would be the successor in Interest, and (B) execute a written agreement(s) satisfactory to the Managers and such creditor(s) or other party acknowledging that such assignee shall be bound by, and take the applicable Interests subject to, the obligations, conditions and restrictions of such guarantee.

(b) An assignee who does not become a Substituted Member has no right to require any information or account of the Company transactions or to inspect the Company books. He or she shall only be entitled to receive the share of the profits or other distributions, or the return of the contribution, to which his or her assignor would otherwise be entitled. The failure or refusal of the Members to grant consent to the substitution of an assignee as a Member shall not prevent the assignee from receiving Company distributions attributable to the assigning Member, even though such assignee shall not be deemed to be a Member, provided (i) the assignee has properly received such assignment pursuant to the terms of this Agreement, (ii) the instrument of assignment is in form and substance satisfactory to the Managers and assignee has complied with all other applicable provisions of this Agreement, (iii) a duly executed and acknowledged counterpart of such instrument is filed with the Company, and (iv) the assignee is not, except as otherwise provided below, a person below the age of eighteen (18) years or a person theretofore adjudged to be incompetent. Any attempted assignment to a person below the age of eighteen (18) years or to a person theretofore adjudged to be incompetent shall be void and ineffectual and shall not bind the Company except to the extent such assignment is duly made to a trustee, guardian, custodian or personal representative for the assignee.

7.5 Distributions and Allocations in Respect to Transferred Interests. If any Interest in the Company is Transferred during any fiscal year in compliance with the provisions of this Agreement, all items of Profit and Loss, each item thereof and all other items attributable to such Interest in the Company for such fiscal year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the fiscal year in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Managers. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that if the Company does not receive a notice stating the date such Interest in the Company was Transferred and such other information as the Managers may reasonably require within thirty (30) days after the end of the fiscal year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the party who was the owner of the Transferred Interest, according to the books and records of the Company, on the last day of the fiscal year during which the Transfer occurred. Neither the Company nor the Managers shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 7.5, whether or not the Company or the Managers has knowledge of any Transfer of ownership of any Interest in the Company.

7.6 Withdrawing Member. A Withdrawing Member shall cease to be a Member as of the effective date of the applicable Withdrawal Event and such Withdrawing Member shall cease to have any rights or privileges, but (a) such Withdrawing Member shall not be released or discharged from any of the obligations of a Member under the provisions of this Agreement, unless provided otherwise by the written consent of the Managers, and (b) such Withdrawing Member shall be entitled to continue to receive his or her share of the profits or other distributions of the Company unless and until such Withdrawing Member's Membership Interest is purchased as provided in Section 7.7.

7.7 Purchasing of Withdrawing Member's Membership Interest.

(a) After the occurrence of a Withdrawal Event, the Company and/or the Members shall have the option to purchase all of the Withdrawing Member's Interest at a price determined as set forth below. The Company's option shall be exercised by written notice to the Withdrawing Member or his or her successor in interest, as the case may be, given within thirty (30) days after the Managers provide notice to the Members of the Withdrawal Event; provided, the closing of such purchase shall not occur until the purchase price of the Withdrawing Member's Interest has been determined as set forth below. If the Company does not so exercise its option within such time period, any or all of the Members may exercise their option by giving written notice thereof to the Withdrawing Member or his or her successor in interest and the Managers at any time after the first to occur of (i) the expiration of the Company's option or (ii) the Company giving written notice that it declines to exercise its option. In the event that more than one Member desires to purchase the Withdrawing Member's Interest, such Interest and associated purchase price shall be divided among such Members proportionate to the percentage that each of such Member's Interest represents to the aggregate of all such Members' Interest.

(b) Upon the exercise of any option under Section 7.7(a), the Company shall promptly determine the purchase price of the Withdrawing Member's Interest. The purchase price for a Withdrawing Member's Interest shall be calculated as indicated below (the "Purchase Price Calculation" or "PPC"):

- (i) If DSCR less than 1.15, then  $PPC = ((85\% \times EV) \times PSD) \times I$
- (ii) If DSCR of 1.15 to 1.25, then  $PPC = ((90\% \times EV) \times PSD) \times I$
- (iii) If DSCR of 1.26 to 1.35, then  $PPC = ((95\% \times EV) \times PSD) \times I$
- (iv) If DSCR greater than 1.35, then  $PPC = (EV \times PSD) \times I$

"DSCR" means the debt service coverage ratio of the Partnership as determined by the Managers.

"EV" means the estimated fair market value of the Company as determined by the Managers.

"PSD" means a 80% in order to reflect a 20% private sale discount.

"I" means the percentage Interest proposed for sale

(c) Each Withdrawing Member hereby irrevocably appoints each Manager, any of whom may act, as his or her attorney-in-fact, which appointment shall not expire upon such Member's disability, for the specific purpose of executing such documents as the Managers deem necessary to memorialize any Transfer pursuant to this Section 7.7.

## **ARTICLE 8 TERMINATION**

8.1 Events Causing Dissolution and Winding Up. Any of the following events shall cause the dissolution and winding up of the Company:

(a) The consent in writing to do so by either all of the Managers or Members owning 75% of the Members' Interests in the Company.

(b) Any other event causing dissolution under the Act, except as provided in Section 8.2.

8.2 Election to Continue Company. An event set forth in Section 8.1(b) shall not result in the dissolution, winding up and termination of the Company if, within ninety (90) days after the occurrence of that event, the Managers or a Majority in Interest of the remaining Members elect to continue the Company.

8.3 Winding Up. Upon the occurrence of an event set forth in Section 8.1, and in the absence of an election under Section 8.2, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. No Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs. The Managers shall

be responsible for overseeing the winding up and dissolution of the Company and shall take full account of the Company's liabilities and assets. The assets shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a) First, to the payment and discharge of all of the Company's debts and liabilities to creditors other than Members;

(b) Second, to the payment and discharge of all of the Company's debts and liabilities to Members; and

(c) The balance, if any, to the Members in accordance with the positive value in their Capital Accounts, after giving effect to all contributions, distributions, adjustments and allocations for all periods.

When all assets of the Company, after payment of or due provision for the payment of all Company liabilities, have been distributed among the Members as provided in this Agreement, the Company shall terminate and the Members shall execute and file a certificate appropriate to indicate such termination.

8.4 Compliance with Timing Requirements of Regulations. In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article 8 to the Members who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Member has a deficit balance in his or her Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever.

8.5 Deemed Distribution and Recontribution. Notwithstanding any other provision of this Article 8, in the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) but no event set forth in Section 8.1 has occurred, the assets of the Company shall not be liquidated, the Company's liabilities shall not be paid or discharged, and the Company's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Company shall be deemed to have distributed the Property in kind to the Members, who shall be deemed to have assumed and taken subject to all Company liabilities, all in accordance with their respective Capital Accounts. Immediately thereafter, the Members shall be deemed to have recontributed the assets in kind to the Company, which shall be deemed to have assumed and taken subject to all such liabilities.

## **ARTICLE 9 AMENDMENTS**

This Agreement is subject to amendment only by the written consent of Members owning 75% of the Interests in the Company held by the Members. Each Member hereby irrevocably appoints each Manager, any of whom may act, as his or her attorney-in-fact, which appointment shall not expire upon such Member's disability, for the specific purpose of executing such

documents as the Managers deem necessary to memorialize any amendment made pursuant to the first sentence of this Article.

## **ARTICLE 10 TAX ALLOCATIONS**

10.1 Special Allocations. The following special allocations shall be made in the following order, if and only to the extent required to make the regular allocations set forth herein comply with the provisions of Section 704(b) of the Code and the Regulations promulgated thereunder:

(a) Company Minimum Gain Chargeback. Notwithstanding any other provision of Article 4 or 10, if there is a net decrease in Company Minimum Gain during any Company fiscal year or other period, each Member shall be specially allocated items of Company income and gain for such year or other period (and, if necessary, subsequent years), in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to the various Members pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 10.1(a) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith. To the extent permitted by said Section of the Regulations and for purposes of this Section 10.1 only, each Member's Adjusted Capital Account Deficit shall be determined prior to any other allocations pursuant to Articles 4 or 10 with respect to such fiscal year and without regard to any net decrease in Member Minimum Gain during such fiscal year.

(b) Member Minimum Gain Chargeback. Notwithstanding any other provision of Articles 4 or 10 except Section 10.1(a), if there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year or other period, each Member with a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such year or other period (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to the various Members pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 10.1(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 10.1(c) shall be made only if and to the extent that such Member

would have an Adjusted Capital Account Deficit after all other allocations provided for in Articles 4 or 10 have been tentatively made as if this Section 10.1(c) were not in this Agreement. This Section 10.1(c) is intended to comply with the “qualified income offset” requirement in Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

(d) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any Company fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 10.1(d) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in Articles 4 or 10 have been tentatively made as if Section 10.1(d) and Section 10.1(c) hereof were not in this Agreement.

(e) Nonrecourse Deductions. Nonrecourse deductions for any fiscal year shall be allocated among the Members in accordance with their Interests.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of his or her Interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations. If a Member so requests, the Company shall file an election under Code Section 754 to adjust the basis of Company assets as provided in the preceding sentence, in the event of a distribution of one or more Company assets or the Transfer of an Interest in the Company. The cost of the Section 754 election (including all accounting fees and expenses) shall be borne by the Member requesting the election.

10.2 Curative Allocations. The Allocations set forth in Section 10.1 hereof (the “Regulatory Allocations”) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations will be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section 10.2. Therefore, notwithstanding any other provisions of Article 4, the Managers shall make such offsetting special deductions in whatever manner they determine appropriate, so that, after offsetting allocations are made, each Member’s Capital Account balance is to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all

Company items were allocated pursuant to Article 4 hereof. In exercising their discretion under this Section 10.2, the Managers shall take into account future Regulatory Allocations under Section 10.1 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section 10.1.

10.3 Code Section 704(c). In accordance with Code Section 704(c) and the 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 Gross Asset Value.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 2.12 hereof, 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 Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Members in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 10.3 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing Capital Accounts or shares of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

10.4 Economic Consistency. The Members intend that the tax allocation provisions of Article 10 shall result in final Capital Account balances of the Members that permit liquidating distributions to be made in accordance with final Capital Account balances under Section 8.3.

The tax allocation provisions of Article 10 shall be applied (and amended) by the Managers, if and to the extent necessary, to produce that result even if those amendments require the amendment of prior tax returns of the Company to do so.

## **ARTICLE 11 BOOKS AND RECORDS**

11.1 Company Books. The Managers shall maintain at the principal office of the Company complete and accurate books of account, in which shall be entered, fully and accurately, each and every transaction of the Company and the records required to be maintained by the Company pursuant to the Act. The books shall be kept according to such generally accepted method of accounting as the Members may select, and the fiscal year of the Company shall be the calendar year. Within ninety (90) days of the end of each fiscal year of the Company, each Member shall be provided with a balance sheet and income statement reflecting such fiscal year's operations. A Schedule K-1 shall be delivered to each Member after the end of each fiscal year of the Company so that each Member may timely file his or her personal income tax return.

11.2 Inspection of Books. The Members shall each have the right, at their own expense, upon reasonable notice, to examine the books of account of the Company for any reasonable purpose, provided that any such examination shall be conducted during normal business hours and without disruption of the Company's business.

11.3 Checking Accounts. The Company shall maintain a checking account or accounts at such bank or banks as shall be most conducive to the proper conduct of the business of the Company. Checks drawn on any such account shall be valid only when signed by one of the Managers.

11.4 Partnership Representative.

(a) Designation and Authority of the Tax Matters Manager. Brian Staub is designated as the Company's "Tax Matters Manager." The Tax Matters Manager is authorized to represent the Company in connection with all examinations of the Company's affairs by tax authorities or any administrative or judicial tax proceedings with respect to the Company, and to expend Company funds for professional services and costs associated therewith, and the Company will reimburse the Tax Matters Manager for any such costs or other costs associated with carrying out its role as Tax Matters Manager that it incurs directly. The Tax Matters Manager will have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any tax authority with respect to the Company and whether the Company will make any elections with respect to any tax assessment or proceeding.

(b) To the extent that the Company is an "eligible partnership" (as such term is used in Regulations § 301.6221(b)-1) and is permitted to make an election under Code Section 6221(b) and Regulations § 301.6221(b)-1 (an "Opt-Out Election"), the Company shall make an Opt-Out Election on its federal income tax return for each taxable year of the Company to elect out of the application of the new partnership audit laws and procedures set forth in Subchapter C of Chapter 63 of Subtitle F of the Code, as modified by Section 1101 of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74, and including any successor statutes thereto or Regulations promulgated or official guidance issued thereunder (the "Partnership Audit Procedures").

(c) For each taxable year of the Company for which no Opt-Out Election is made, the Company shall designate, pursuant to Regulations § 301.6223-1 (and any successor Regulations and other applicable guidance) on its United States federal income tax return for each such taxable year of the Company, the Tax Matters Manager as the "partnership representative" for the Company (the "Partnership Representative"), and shall make such corresponding designations under any corresponding provisions of applicable foreign, state, or local tax law. To the extent that the Tax Matters Manager is not an individual, the Tax Matters Manager shall select any Person to serve as its "designated individual" pursuant to the Partnership Audit Procedures. The Tax Matters Manager, in its capacity as the Partnership Representative, shall (i) determine all matters with respect to any examination of the Company by any taxing authority (including, without limitation, the allocation of any resulting taxes, penalties, and interest among the Members and whether to make an election under Code § 6226 (and any similar provision under applicable foreign, state, or local tax law) with respect to any audit or other examination of the Company) and, (ii) notwithstanding anything herein to the contrary, make such elections as it deems appropriate pursuant to the provisions of the Partnership Audit Procedures.

(d) Each Member and former Member agrees to cooperate, and to cause its direct and indirect owners to cooperate, with the Partnership Representative and to do or refrain from doing any or all things reasonably requested by the Partnership Representative with respect



to the conduct of any tax proceedings, in each case regardless whether then a Member or after ceasing to be a Member. Any deficiency for taxes imposed on any Member or former Member or its direct or indirect owners (including penalties, additions to tax, or interest imposed with respect to such taxes) will be paid by such Member or former Member or its direct or indirect owners as applicable, and if required to be paid (and actually paid) by the Company, such Member or former Member shall indemnify the Company for such amounts within thirty days of such payment by the Company, in each case regardless of whether then a Member or after ceasing to be a Member.

(e) At the request of the Partnership Representative, in connection with an adjustment of any item of income, gain, loss, deduction, or credit of the Company or any subsidiary entity in which the Company has an interest, directly or indirectly, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, promptly file one or more amended tax returns in the manner contemplated by Code § 6225(c) (and any Regulations or official guidance relating thereto, and, if applicable, any corresponding or similar provisions under state or local law) and pay any tax due with respect to such returns. If the Partnership Representative makes an election for the Company pursuant to Code § 6226 with respect to an imputed underpayment, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, comply with the requirements under such section (and any Regulations or official guidance relating thereto). At the request of the Partnership Representative, each Member and former Member shall, and shall cause its direct and indirect owners, as applicable, to, provide the Partnership Representative and the Company with any information available to such Member or former Member (or its direct or indirect owners or representatives) and with such representations, certificates, or forms relating to such Member or former Member (or its direct or indirect owners or representatives) and any other documentation, in each case, that the Partnership Representative determines, in its reasonable discretion, are necessary to modify an imputed underpayment under Code § 6225(c) or the Regulations or other official guidance thereunder. In the event that any imputed underpayment is paid or payable by the Company under Code § 6225(a)(1), each Member and former Member shall indemnify the Company in an amount equal to such Member's or former Member's share (as determined by the Partnership Representative with the advice of the Company's tax counsel) of the imputed underpayment and any associated interest and penalties) paid or payable by the Company; provided, however, that the Partnership Representative may determine, in its discretion, to allocate the burden of such amount to such Member without requiring payment by such Member to the Company.

(f) Each Member's obligations to comply with the requirements of this Section 11.4 shall survive the Member's transfer of all or any portion of the Member's interest in the Company, otherwise ceasing to be a Member and/or the termination, dissolution, liquidation, and winding up of the Company, to the extent applicable.

(g) Any Person acting as a Tax Matters Manager, Partnership Representative or designated individual pursuant to this Section 11.4 shall, when acting in such capacity, be deemed to be a Manager for purposes of the Virginia Limited Liability Company Act, and as such their liability shall be eliminated to the same extent as Manager's liability is eliminated under this Agreement and they shall be entitled to indemnification to the same extent as a Manager is entitled to indemnification under this Agreement.

**ARTICLE 12**  
**INDEMNIFICATION AND EXCULPATION OF MANAGERS AND MEMBERS**

12.1 Indemnification. The Managers and the Members shall be indemnified and held harmless by the Company from any liability resulting from any act performed by or omission made by them on behalf of the Company (except for acts or omissions of gross negligence or willful misconduct) to the fullest extent that a director or officer of a stock corporation may be indemnified and held harmless under Chapter 9 of Title 13.1 of the Code of Virginia of 1950, as amended.

12.2 Exculpation. The Managers and the Members shall not be liable to the Company or to any Member for or as a result of any act, omission or error in judgment that was taken, omitted or made by the Managers or the Members in accordance with the standards established by Section 13.1-1024.1 of the Act.

**ARTICLE 13**  
**MISCELLANEOUS**

13.1 Notice. Any notice provided for in this Agreement to a Member shall be deemed given if sent by electronic mail, hand delivery, overnight delivery service, or by registered or certified mail to such Member at the address shown for such Member on the books and records of the Company or at such other address as may have been given in writing to the Company, at its principal office by registered or certified mail, return receipt requested.

13.2 Entire Agreement. This Agreement contains the entire agreement among the parties with regard to the operations of the Company and supersedes any prior understanding and/or written or oral agreements among them respecting the subject matter hereof.

13.3 Severable. In the event any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

13.4 Governing Law. This Agreement is made in, and shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia.

13.5 Captions. Any title or captions contained in this Agreement are for convenience only, and shall not be deemed a part of the context of this Agreement.

13.6 Interpretation. When the context in which the words are used in this Agreement indicates that such is the intent, words in the singular number shall include the plural and vice versa, and words in the masculine gender shall include the feminine and neuter genders and vice versa.

13.7 Successors. This Agreement shall be binding upon the parties hereto, and, if and when assigned in accordance with the provisions hereof, their respective assigns, successors in interest, personal or legal representatives, estates, heirs, and legatees.

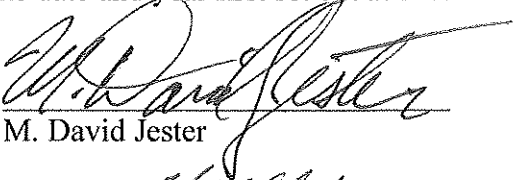
13.8 Waiver of Compliance. Any failure of any Member to comply with any obligation, covenant, agreement or condition herein may be waived by other parties hereto, but such waiver

or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

13.9 Counterparts. This document may be executed in several facsimile counterparts and such counterparts, when taken together, shall be as valid and binding and have the same effect, as if all signatures were original and on one document.

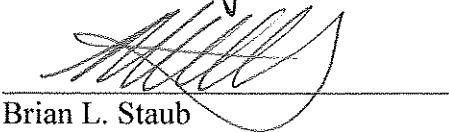
**[SIGNATURE PAGE FOLLOWS]**

WITNESS the following signatures and seals as of the date and year first set out above:



---

M. David Jester



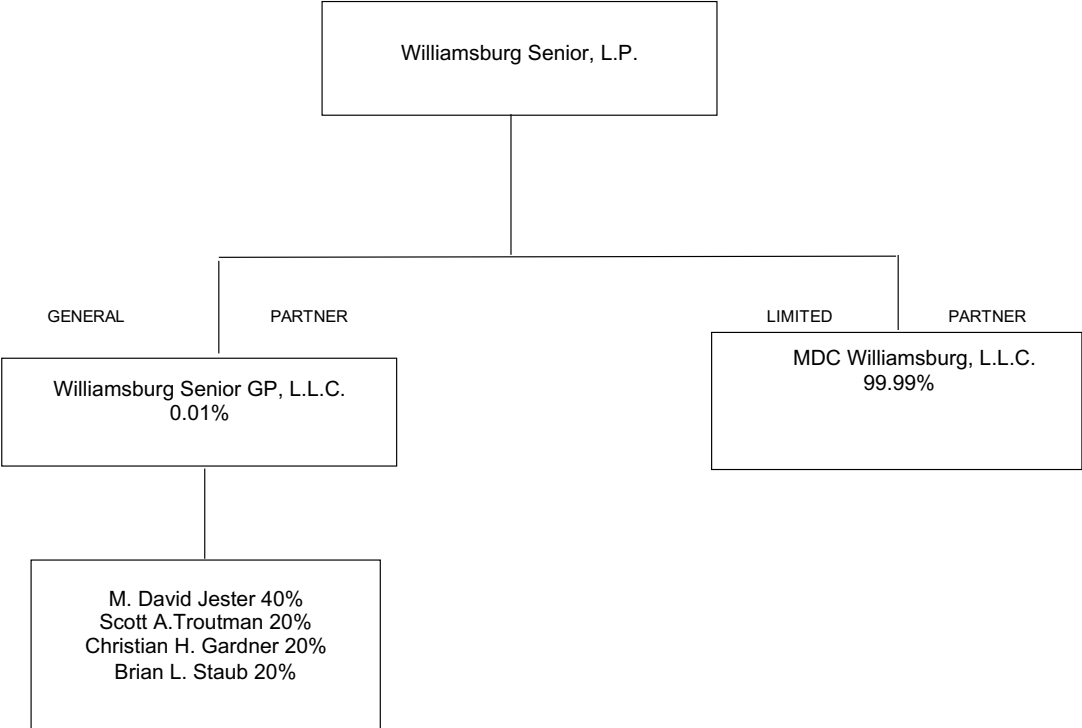
---

Brian L. Staub

**EXHIBIT A  
TO  
OPERATING AGREEMENT  
OF  
MDC WILLIAMSBURG, LLC**

<b><u>MEMBER NAME AND ADDRESS</u></b>	<b><u>INITIAL CAPITAL CONTRIBUTION</u></b>	<b><u>INTEREST</u></b>
M. David Jester 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		60%
Brian L. Staub 308 35th Street, Suite 101 Virginia Beach, Virginia 23451		40%

**Williamsburg Senior, L.P.  
Ownership Structure**



B

Virginia State Corporation  
Commission Certification  
(MANDATORY)

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

**CERTIFICATE OF LIMITED PARTNERSHIP**

The undersigned, on behalf of the limited partnership set forth below, pursuant to Title 50, Chapter 2.1 of the Code of Virginia, state(s) as follows:

1. The name of the limited partnership is **Williamsburg Senior, LP**
2. A. The name of the limited partnership's initial registered agent is:  
  
Timothy O. Trant II  
  
B. The registered agent is an individual who is a resident of Virginia and a member of the Virginia State Bar.
3. A. The limited partnership's initial registered office address, which is identical to the business office of the initial registered agent is:  
  
11815 Fountain Way, Suite 400, Newport News, VA 23606  
  
B. The registered office is physically located in the City of Newport News.
4. The name and address of each general partner, and its jurisdiction of organization and SCC identification number, if assigned, are as follows:  
  
Williamsburg Senior GP, LLC  
308 35th Street, Suite 101, Virginia Beach, VA 23451  
Virginia limited liability company; SCC ID #: 11080138
5. The limited partnership's principal office address is:  
  
308 35th Street, Suite 101, Virginia Beach, VA 23451

Signatures of all general partners:

**Williamsburg Senior GP, LLC,**  
a Virginia limited liability company

By:   
Brian L. Staub, Manager

Date: August 26, 2020



# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

Richmond, September 10, 2020

This is to certify that the certificate of limited partnership of

### **Williamsburg Senior, LP**

was this day admitted to record in this office and that the said limited partnership is authorized to transact its business subject to all Virginia laws applicable to the limited partnership and its business.

Effective date: September 10, 2020



STATE CORPORATION COMMISSION

Attest:

A handwritten signature in cursive script, appearing to read "Bernard J. St. John".

Interim Clerk of the Commission



**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

**Office of the Clerk**

September 10, 2020

Rebecca Lambert  
11815 Fountain Way  
Suite 400  
Newport News, VA, 23606

**RECEIPT**

RE: Williamsburg Senior, LP  
ID: 11107228  
FILING NO: 2009101050694  
WORK ORDER NO: 202009080937293

Dear Customer:

This is your receipt for \$100.00 to cover the fee for filing a certificate of limited partnership with this office.

The effective date of the certificate is September 10, 2020.

If you have any questions, please call (804) 371-9733 or toll-free in Virginia, (866) 722-2551.

Sincerely,

Bernard J. Logan  
Interim Clerk of the Commission

Delivery Method: Email

C

Principal's Previous  
Participation Certification  
(MANDATORY)



## Previous Participation Certification

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

Name of Applicant (entity): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

  
\_\_\_\_\_  
Signature

Brian Staub  
\_\_\_\_\_  
Printed Name

9/15/20  
\_\_\_\_\_  
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: Arbors at Williamsburg  
 Name of Applicant: Williamsburg Senior, L.P.  
 Controlling General Partner or Managing Member: Williamsburg Senior GP, LLC

### INSTRUCTIONS:

- 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.
- A resume is required for each principal of the General Partnership or Limited Liability Company (LLC).
- 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.
- List only tax credit development experience since 1999 (i.e. for the past 15 years)
- Use separate pages as needed, for each principal.

Christian H. Gardner Controlling GP (CGP) or 'Named' Managing Member of Proposed property?\* N  
 Principals Name: Y or 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	Sunset Creek Apartments, Hampton, VA	Sunset Hampton, L.P. 757-437-1677	N	132	132	1/17/20	8/18/20	N
2	Suffolk Senior Apartments, Suffolk, VA	Suffolk Senior, L.P. 757-437-1677	N	138	111	4/25/19	12/20/19	N
3	York Senior Apartments Williamsburg, VA	York Senior, L.P. 757-437-1677	N	130	110	4/12/19	12/16/19	N
4	The Arbors of Culpeper Culpeper, VA	Culpeper Senior, L.P. 757-437-1676	N	132	117	7/6/18	3/15/19	N
5	Forrest Landing Apartments, Phase II, Newport News, VA	FL2, L.P. 757-437-1677	N	64	64	6/11/18	1/3/19	N
6	Catalina Crossing Chesapeake, VA	Catalina Crossing, L.P. 757-437-1677	N	124	124	7/15/16	3/1/17	N
7	The Woodlands Hampton, VA	Woodlands Hampton, L.P. 757-437-1677	N	132	27	8/28/15	3/24/16	N
8	Waterford Pointe Apartments Newport News, VA	Waterford Pointe, L.P. 757-437-1677	N	120	120	11/3/14	8/24/15	N
9	Forrest Pines Seniors Newport News, VA	Forrest Pines Seniors, L.P. 757-437-1677	N	123	123	10/12/14	4/28/15	N
10	Pavilion Apartments Newport News, VA	Pavilion Investors, L.P. 757-437-1677	N	32	32	3/1/13	4/3/14	N
11	Sharps Landing Apartments Newport News, VA	Sharps Landing, L.P. 757-437-1677	N	180	180	6/30/11	3/6/13	N
12	Forrest Landing Apartments, Newport News, VA	Forrest Landing Associates, L.P. 757-437-1677	N	120	120	1/14/10	7/27/10	N
13	Somerset Apartments at Town Center, Hampton, VA	Heritage Hampton, L.P. 757-437-1677	N	151	114	6/26/08	4/8/09	N
14	Chester Village Green, Chesterfield, VA	Chester Village, L.P. 757-437-1677	N	163	125	Sept-Dec 2005	9/1/06	N
15	Sinclair Commons Apts., Hampton, VA	Sinclair Commons, L.P. 757-437-1677	N	138	138	7/1/04	6/1/05	N
16	Lynnhaven Cove Apts., Virginia Beach, VA	Lynnhaven Cove, L.P. 757-437-1677	N	115	115	7/1/03	5/1/04	N
17	Shorewood Cove Apts., Norfolk, VA	Shorewood Cove, L.P. 757-437-1677	N	132	129	11/1/11	12/2/11	N
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								
41								
42								

\* 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: 1,994 1,749 LIHTC as % of Total Units 88%

ADD ADDITIONAL PROPERTIES USING NEXT TAB

# List of LIHTC Developments (Schedule A)



Development Name: Arbors at Williamsburg  
 Name of Applicant: Williamsburg Senior, L.P.  
 Controlling General Partner or Managing Member: Williamsburg Senior GP, 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 1999 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principals Name: Scott A. Troulman Controlling GP (CGP) or 'Named' Managing Member of Proposed property?\* Y Y or 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	Sunset Creek Apartments, Hampton, VA	Sunset Hampton, L.P. 757-437-1677	Y	132	132	1/17/20	8/18/20	N
2	Suffolk Senior Apartments, Suffolk, VA	Suffolk Senior, L.P. 757-437-1677	Y	138	111	4/25/19	12/20/19	N
3	York Senior Apartments Williamsburg, VA	York Senior, L.P. 757-437-1677	Y	130	110	4/12/19	12/16/19	N
4	The Arbors of Culpeper Culpeper, VA	Culpeper Senior, L.P. 757-437-1676	Y	132	117	7/6/18	3/15/19	N
5	Forrest Landing Apartments, Phase II, Newport News, VA	FL2, L.P. 757-437-1677	Y	64	64	6/11/18	1/3/19	N
6	Catalina Crossing Chesapeake, VA	Catalina Crossing, L.P. 757-437-1677	Y	124	124	7/15/16	3/1/17	N
7	The Woodlands Hampton, VA	Woodlands Hampton, L.P. 757-437-1677	Y	132	27	8/28/15	3/24/16	N
8	Waterford Pointe Apartments Newport News, VA	Waterford Pointe, L.P. 757-437-1677	Y	120	120	11/3/14	8/24/15	N
9	Forrest Pines Seniors Newport News, VA	Forrest Pines Seniors, L.P. 757-437-1677	Y	123	123	10/12/14	4/28/15	N
10	Pavilion Apartments Newport News, VA	Pavilion Investors, L.P. 757-437-1677	Y	32	32	3/1/13	4/3/14	N
11	Sharps Landing Apartments Newport News, VA	Sharps Landing, L.P. 757-437-1677	Y	180	180	6/30/11	3/6/13	N
12	Forrest Landing Apartments, Newport News, VA	Forrest Landing Associates, L.P. 757-437-1677	Y	120	120	1/14/10	7/27/10	N
13	Somerset Apartments at Town Center, Hampton, VA	Heritage Hampton, L.P. 757-437-1677	N	151	114	6/26/08	4/8/09	N
14	Chester Village Green, Chesterfield, VA	Chester Village, L.P. 757-437-1677	N	163	125	Sept-Dec 2005	9/1/06	N
15	Sinclair Commons Apts., Hampton, VA	Sinclair Commons, L.P. 757-437-1677	N	138	138	7/1/04	6/1/05	N
16	Lynnhaven Cove Apts., Virginia Beach, VA	Lynnhaven Cove, L.P. 757-437-1677	N	115	115	7/1/03	5/1/04	N
17	Shorewood Cove Apts., Norfolk, VA	Shorewood Cove, L.P. 757-437-1677	N	132	129	11/1/11	12/2/11	N
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								
41								
42								

\* 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: 1,994 1,749 LIHTC as % of Total Units 88%

ADD ADDITIONAL PROPERTIES USING NEXT TAB



# List of LIHTC Developments (Schedule A)



Development Name: Arbors at Williamsburg  
 Name of Applicant: Williamsburg Senior, L.P.  
 Controlling General Partner or Managing Member: Williamsburg Senior GP, 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 1999 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: Brian L. Staub Controlling GP (CGP) or 'Named' Managing Member of Proposed property?\* Y or 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	Sunset Creek Apartments, Hampton, VA Sunset Hampton, L.P. 757-437-1677	Y	132	132	1/17/20	8/18/20	N
2	Suffolk Senior Apartments, Suffolk, VA Suffolk Senior, L.P. 757-437-1677	Y	138	111	4/25/19	12/20/19	N
3	York Senior Apartments Williamsburg, VA York Senior, L.P. 757-437-1677	Y	130	110	4/12/19	12/16/19	N
4	The Arbors of Culpeper Culpeper, VA Culpeper Senior, L.P. 757-437-1676	Y	132	117	7/6/18	3/15/19	N
5	Forrest Landing Apartments, Phase II, Newport News, VA FL2, L.P. 757-437-1677	Y	64	64	6/11/18	1/3/19	N
6	Catalina Crossing Chesapeake, VA Catalina Crossing, L.P. 757-437-1677	Y	124	124	7/15/16	3/1/17	N
7	The Woodlands Hampton, VA Woodlands Hampton, L.P. 757-437-1677	Y	132	27	8/28/15	3/24/16	N
8	Waterford Pointe Apartments Newport News, VA Waterford Pointe, L.P. 757-437-1677	Y	120	120	11/3/14	8/24/15	N
9	Forrest Pines Seniors Newport News, VA Forrest Pines Seniors, L.P. 757-437-1677	Y	123	123	10/12/14	4/28/15	N
10	Pavilion Apartments Newport News, VA Pavilion Investors, L.P. 757-437-1677	Y	32	32	3/1/13	4/3/14	N
11	Sharps Landing Apartments Newport News, VA Sharps Landing, L.P. 757-437-1677	Y	180	180	6/30/11	3/6/13	N
12	Forrest Landing Apartments, Newport News, VA Forrest Landing Associates, L.P. 757-437-1677	N	120	120	1/14/10	7/27/10	N
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							
40							
41							
42							

\* Must have the ability to bind the LIHTC entity; document with partnership/operating agreements and one 8602 (per entity/development) for a total of 6.

**1st PAGE**  
**TOTAL:** 1,295 1,128

**LIHTC as % of**  
 87% **Total Units**

ADD ADDITIONAL PROPERTIES USING NEXT TAB

# List of LIHTC Developments (Schedule A)



Development Name: Arbors at Williamsburg  
 Name of Applicant: Williamsburg Senior, L.P.  
 Controlling General Partner or Managing Member: Williamsburg Senior GP, 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 1999 (i.e. for the past 15 years)
- 5 Use separate pages as needed, for each principal.

Principal's Name: M. David Jester Controlling GP (CGP) or 'Named' Managing Member of Proposed property?\* Y Y or 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	Sunset Creek Apartments, Hampton, VA	Sunset Hampton, L.P. 757-437-1677	Y	132	132	1/17/20	8/18/20	N
2	Suffolk Senior Apartments, Suffolk, VA	Suffolk Senior, L.P. 757-437-1677	Y	138	111	4/25/19	12/20/19	N
3	York Senior Apartments Williamsburg, VA	York Senior, L.P. 757-437-1677	Y	130	110	4/12/19	12/16/19	N
4	The Arbors of Culpeper Culpeper, VA	Culpeper Senior, L.P. 757-437-1676	Y	132	117	7/6/18	3/15/19	N
5	Forrest Landing Apartments, Phase II, Newport News, VA	FL2, L.P. 757-437-1677	Y	64	64	6/11/18	1/3/19	N
6	Catalina Crossing Chesapeake, VA	Catalina Crossing, L.P. 757-437-1677	Y	124	124	7/15/16	3/1/17	N
7	The Woodlands Hampton, VA	Woodlands Hampton, L.P. 757-437-1677	Y	132	27	8/28/15	3/24/16	N
8	Waterford Pointe Apartments Newport News, VA	Waterford Pointe, L.P. 757-437-1677	Y	120	120	11/3/14	8/24/15	N
9	Forrest Pines Seniors Newport News, VA	Forrest Pines Seniors, L.P. 757-437-1677	Y	123	123	10/12/14	4/28/15	N
10	Pavilion Apartments Newport News, VA	Pavilion Investors, L.P. 757-437-1677	Y	32	32	3/1/13	4/3/14	N
11	Sharps Landing Apartments Newport News, VA	Sharps Landing, L.P. 757-437-1677	Y	180	180	6/30/11	3/6/13	N
12	Forrest Landing Apartments, Newport News, VA	Forrest Landing Associates, L.P. 757-437-1677	Y	120	120	1/14/10	7/27/10	N
13	Somerset Apartments at Town Center, Hampton, VA	Heritage Hampton, L.P. 757-437-1677	Y	151	114	6/26/08	4/8/09	N
14	Chester Village Green, Chesterfield, VA	Chester Village, L.P. 757-437-1677	Y	163	125	Sept-Dec 2005	9/1/06	N
15	Sinclair Commons Apts., Hampton, VA	Sinclair Commons, L.P. 757-437-1677	Y	138	138	7/1/04	6/1/05	N
16	Lynnhaven Cove Apts., Virginia Beach, VA	Lynnhaven Cove, L.P. 757-437-1677	Y	115	115	7/1/03	5/1/04	N
17	The Crossings at Summerland, Woodbridge, Va	Summerland Heights III, L.P. 757-437-1677	Y	126	126	4/11/03	12/5/03	N
18	Shorewood Cove Apts., Norfolk, VA	Shorewood Cove, L.P. 757-437-1677	Y	132	129	11/1/11	12/2/11	N
19	Somerset, Phase I, Gainesville, VA	Somerset Apts., L.P. 757-437-1677	Y	172	172	1/31/02	6/20/02	N
20	Somerset, Phase II, Gainesville, VA	Somerset Apts., L.P. 757-437-1677	Y	104	104	1/31/02	6/20/02	N
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								
41								
42								

\* 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:** 2,396 2,151 **LIHTC as % of Total Units** 90%

E

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

## REAL ESTATE PURCHASE AGREEMENT

13 THIS REAL ESTATE PURCHASE AGREEMENT ("Agreement") is hereby entered into as of this day of May, 2019, by and between **MARLYN DEVELOPMENT CORPORATION**, a Virginia corporation ("Buyer"), and **AMERITAS LIFE INSURANCE CORP.**, a Nebraska corporation, and **AMERITAS LIFE INSURANCE CORP. OF NEW YORK**, a New York insurance company (collectively the "Seller").

1. **AGREEMENT OF PURCHASE AND SALE.** Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, for the Purchase Price set forth below and on the terms and conditions set forth in this Agreement, that certain Property defined below in this Section 1. For purposes of this Agreement, the term, "Property" shall be deemed to mean, on a collective basis: (a) that certain real property located at 1915 Pocahontas Trail, Williamsburg, Virginia and listed on the tax map records of York County, Virginia as GPINs G12b-4433-3390 and G12b-4695-3050 and as more particularly described in Exhibit A attached hereto, provided, however, a more particular description shall be developed in connection with Buyer's title search and/or survey, which description shall be deemed incorporated herein and which shall be used in the Deed at Closing ("Real Property"), together with all rights, benefits, privileges, easements and interests appurtenant thereto; (b) all improvements located on the Property which are owned by Seller ("Improvements"); (c) all right, title and interest of Seller in and to permits, licenses, certificates, approvals, authorizations, variances, and consents issued in the name of Seller or otherwise which relate to the ownership, leasing, operation and maintenance of Property; (d) all personal property owned by Seller and located on or in the Real Property or the Improvements ("Personal Property"); and (e) Seller's interest in any and all intangible property related to the development, use, ownership, maintenance, possession or occupancy of the Real Property, including the Leases and Service Contracts (defined below) ("Intangible Personal Property").

2. **PURCHASE PRICE.** The total purchase price to be paid to Seller by Buyer for the Property shall be Two Million Six Hundred Thousand and 00/100 Dollars (\$2,600,000.00) ("Purchase Price"). The Purchase Price shall be paid to Seller at Closing, plus or minus prorations and other adjustments hereunder, by federal wire transfer of immediately available funds. At Closing, the Earnest Deposit and all accrued interest thereon shall be applied to and credited against the Purchase Price.

3. **DEPOSIT.** Within two (2) business days after the date Buyer receives from Seller a fully executed original of this Agreement (the "Effective Date"), Buyer shall deliver to NexGen Title Agency, LLC (the "Escrow Agent") a deposit in the amount Fifty Thousand and No/100 Dollars (\$50,000.00) ("Earnest Deposit") in the form of Buyer's check. The Escrow Agent shall hold the Earnest Deposit in an interest-bearing account with interest credited to Buyer at Closing.

4. **SELLER DELIVERIES.** Within ten (10) days of the Effective Date, to the extent in Seller's possession or control, Seller shall provide Buyer with copies of its title insurance policy/commitment with listed exceptions, a survey of the Property, any environmental reports concerning the Property, a current rent roll for the Property, existing leases for space at the Property ("Leases"), a year-end 2018 operating statement for the Property and a copy of each service contract applicable to the Property (excluding any brokerage agreements) ("Service Contracts"), and evidence of Seller's right, power and due authority to enter into this Agreement and to sell the Property in accordance with the terms hereof, which evidence shall be reasonably satisfactory to Buyer's title insurance company (collectively the "Seller Deliveries"). Buyer acknowledges that any due diligence materials provided by Seller are confidential information and shall keep such information strictly confidential and shall not disclose such confidential information to any person or entity other than Buyer's financial, legal, and other consultants directly involved in the acquisition and redevelopment of the Property. In the event the purchase and

sale transaction contemplated herein does not close for any reason, Buyer shall upon demand promptly return the Seller Deliveries and all copies thereof to Seller. This obligation shall survive the expiration or termination of this Agreement.

5. **INSPECTION PERIOD.** During the term of this Agreement, Buyer and its agents, contractors, engineers, surveyors, attorneys, representatives and employees (collectively the “Buyer Representatives”) shall have the right to access the Property upon not less than one (1) business day advance written notice to Seller (which may be given exclusively by email to all those parties identified in Section 25 as the recipients of such notices) for the purpose of conducting, at its sole cost, expense and risk, surveys, examinations, measurements, soil analyses, engineering tests and studies, environmental tests and studies, economic and/or topographic tests, studies, and such other activities (collectively, the “Studies”) as Buyer deems necessary related to the acquisition and redevelopment of the Property in accordance with Buyer’s plans. Seller shall have the right for itself or its designated representative to accompany Buyer and any Buyer Representatives while such person or persons is or are present on the Property. Buyer (inclusive of any Buyer Representatives), may not perform any Studies at the Property that involve any sort of boring or drilling into the ground or improvements without the prior written consent of Seller, which consent will not be unreasonably withheld. In connection with any such on-site inspections, neither Buyer nor any Buyer Representatives shall (i) unreasonably interfere with the business of Seller (or any of its tenants) conducted at the Property or materially disturb the use or occupancy of the Property, or (ii) irreparably damage the Property. Buyer shall promptly restore the Property to substantially the same condition existing prior to the conduct by Buyer or a Buyer Representative of any Studies. Buyer shall indemnify, defend and hold Seller harmless from any and all losses, liens, liabilities, damages and expenses (including penalties, interest, reasonable attorneys’ fees and expenses) (collectively “Liabilities”) which Seller shall incur or suffer to the extent arising from the access to or entry upon the Property by Buyer or any Buyer Representatives in the course of exercising of Buyer’s rights under this Section 5; provided, however, the preceding obligation of Buyer shall not apply to the extent any Liabilities arise out of or are caused by (1) the existence on the Property of a recognized environmental condition (as defined in ASTM Standard E1527-13), and/or (2) the negligent, reckless, or willful act(s) or omission(s) of Seller. Buyer’s indemnification obligations under this Section 5 shall survive the termination or expiration of this Agreement by Closing or otherwise.

Prior to Buyer accessing the Property to conduct Studies, Buyer shall obtain and maintain, or shall cause each of its contractors and agents to maintain (and shall deliver to Seller evidence thereof), at no cost or expense to Seller, general liability insurance, from an insurer reasonably acceptable to Seller, with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for personal injury and property damage. Such policies shall name Seller as an additional insured party and shall provide coverage against any claim for personal liability or property damage caused by Buyer or any Buyer Representatives. Unless required by applicable law, neither Buyer nor any Buyer Representatives shall report the results of the diligence inspection to any governmental or quasi-governmental authority under any circumstances without obtaining Seller’s express written consent, which consent may be withheld in Seller’s sole discretion. Upon completion and without request from Seller, Buyer shall provide Seller with copies of any and all final, third party reports prepared on behalf of Buyer as part of the diligence inspection; provided, however, all such information will be in its “AS IS/WHERE IS” condition without warranty or representation, and all proprietary work product of Buyer will be excluded.

On or before 5:00 pm Eastern Standard Time on the ninetieth (90<sup>th</sup>) day following the Effective Date (the “Inspection Period End Date”), Buyer may terminate the Agreement in its sole and absolute discretion for any reason or no reason, in which event this Agreement shall be of no further force or effect and, except as otherwise provided in this Agreement, no party shall have any further rights, obligations or liabilities under this Agreement, and Buyer shall receive back its Earnest Deposit plus the accrued interest thereon. If Buyer elects not to terminate

this Agreement on or before the Inspection Period End Date, the Earnest Deposit plus the interest accrued thereon shall be non-refundable and shall be deemed earned by Seller, except in the event of a Seller Default or as set forth in Section 6 hereof.

6. **APPLICATION PERIOD.** On or before 5:00 pm Eastern Standard Time on the date that is sixty (60) days following the Inspection Period End Date (the "Application Submittal Period"), Buyer shall have diligently prepared the necessary conceptual site plan of Buyer's proposed redevelopment of the Property to a four story senior housing community containing 150 units or more and a parking requirement of no more than 1.2 spaces per unit and ("Intended Use") and filled out the necessary applicable York County, Virginia rezoning and/or special use permit application ("Application") for its redevelopment of the Property to the Intended Use and submitted the completed Application to York County. The date in which Buyer submits the Application to York County shall be referred to as the "Submittal Date." Seller shall at Buyer's expense reasonably cooperate with Buyer in the preparation of the Application and shall promptly consent to and sign the Application, proffers, and all documents required to be signed by the owner of the Property.

If Buyer does not submit the completed Application to York County by the end of the Application Submittal Period or this Agreement is not otherwise terminated in accordance with this Agreement, such failure shall be deemed a Buyer Default (but without any Buyer cure rights otherwise provided in Section 18) and this Agreement shall automatically terminate. Upon such termination, this Agreement shall be of no further force or effect and, except as otherwise provided in this Agreement, neither party shall have any further obligations under this Agreement unless otherwise specifically noted herein, and Seller shall have the right as its sole and exclusive remedy to obtain from Escrow Agent the Earnest Deposit and all accrued interest thereon as liquidated damages for the Buyer Default.

Upon submittal of the Application, Buyer shall diligently and in good faith pursue the approval of the Application by York County, and within three (3) business days after the Submittal Date, Buyer shall deposit an additional Twenty-Five Thousand and No/100 Dollars (\$25,000.00) ("Submittal Deposit") with the Escrow Agent. Except as otherwise provided in this Agreement, upon the submittal of the Application, Buyer shall have no right to terminate the Agreement except as set forth below in the next paragraph.

If, within 150 days after the Submittal Date (the "Application Approval Period"), the Application has (i) not been finally approved by York County and the 30 day appeal period expired despite Buyer's diligent and good faith efforts, (ii) denied by York County despite Buyer's diligent and good faith efforts, (iii) finally approved by York County with material terms and/or conditions of which Buyer reasonably did not approve, or (iv) is finally approved by York County but successfully appealed by a third party, then Buyer shall have the absolute right to terminate this Agreement by giving written notice to that effect to Seller on or before the expiration of the Application Approval Period. If Buyer exercises such right to terminate, this Agreement shall terminate and be of no further force or effect and, except as otherwise provided in this Agreement, no party shall have any further rights, obligations or liabilities under this Agreement, and the Earnest Deposit and Submittal Deposit (collectively the "Deposits") shall be returned immediately to Buyer together with any interest accrued thereon.

If Buyer has not terminated this Agreement as permitted herein, then upon the earlier to occur of (a) the expiration of the Application Approval Period, and (b) the date which the appeal period expires (with no appeals being noted) on the final approval by York County of the Application upon terms and conditions acceptable to Buyer in its reasonable discretion ("Application Approval Date"), the Deposits shall be non-refundable to Buyer (except in the event of a default by Seller or as otherwise provided herein), but applicable to the Purchase Price, and the Submittal Deposit shall be considered earned by Seller. Within five (5) days of the Application Approval Date, Buyer shall provide proof of funds in at least the amount of the Purchase Price.

7. **SITE PLAN APPROVAL.** On or before 5:00 pm Eastern Standard Time on the date that is ninety (90) days after the Application Approval Date (the "Site Plan Submittal Period"), Buyer shall fully submit the necessary materials to York County to begin the site plan approval process and shall diligently pursue approval of the site plan in good faith and in accordance with the York County Development Guide. If York County provides comments to the initial submittal in accordance with the York County Development Guide, Buyer shall have fifteen (15) business days to fully respond to York County's comments and re-submit its site plan to York County for final approval. The date on which York County finally approves the site plan shall be referred to as the "Site Plan Approval Date." If Buyer does not submit its site plan for approval within the Site Plan Submittal Period, then Buyer may provide written notice to Seller on or before the expiration of the Site Plan Submittal Period of its intent to proceed to Closing (the date of such notice being deemed the Site Plan Approval Date). The failure of Buyer to provide such notice or to submit its site plan to York County on or before the expiration of the Site Plan Submittal Period shall be deemed a Buyer Default (but without any Buyer cure rights otherwise provided in Section 18) and this Agreement shall automatically terminate. Upon such termination, neither party shall have any further obligations under this Agreement unless otherwise specifically noted herein, and Seller shall have as its sole and exclusive remedy the right to obtain from Escrow Agent the Deposits and all accrued interest thereon as liquidated damages for the Buyer Default.

8. **CLOSING DATE.** In the event all of the conditions precedent to Buyer and Seller's respective obligations hereunder have been satisfied or waived, closing under the terms of this Agreement ("Closing") shall be held at the offices of the Escrow Agent on or before the date that is thirty (30) days following the Site Plan Approval Date (the "Closing Date"); provided, unless waived by Buyer, (i) there has been no change in the status of title from the Effective Date and title is shown to be good and marketable and in accordance with the provisions of this Agreement or is otherwise accepted by Buyer, (ii) there shall have been no material, adverse change after the Effective Date and prior to Closing in the nature or condition of or circumstances affecting the Property, including, without limitation, actual or potential condemnation that in Buyer's reasonable discretion would render the remaining Property unsuitable for its Intended Use, any change in areas determined to be flood prone, designated wetlands, governmental zoning ordinances (excluding the Application) having a material adverse effect on the Intended Use of the Property, or restrictions and requirements affecting ownership and development of the Property for the Intended Use, (iii) all representations and warranties of Seller contained in this Agreement are true and correct in all material respects, (iv) all other conditions precedent to Buyer's obligations under this Agreement have been satisfied, and (v) Seller has performed all its obligations under this Agreement. Risk of loss to the Property by casualty, subsidence or otherwise shall remain with Seller until Closing.

9. **CONVEYANCE.** Seller shall convey the Property by special warranty deed with the covenant of further assurances, free and clear of all liens, claims and encumbrances except for any Permitted Exceptions (as defined below) to Buyer or to such person or entity as Buyer may designate prior to or at Closing in accordance with the provisions of Section 26 of this Agreement. Seller agrees to deliver the form of the Deed to Buyer at least three (3) days prior to the Closing Date.

10. **EXPENSES.** Seller shall pay the cost of the preparation of the Deed, standard form Owner's Affidavit required by the Escrow Agent, the Virginia Grantor's Tax, and the fees of Seller's attorney. Buyer shall pay the expenses of examination of title, survey, any environmental testing, and the title insurance premiums, title insurance endorsements, and all recording fees and taxes (other than Virginia Grantor's Tax) and other Closing costs ordinarily paid by buyers in York County, Virginia for similar transactions. Buyer shall each pay the Escrow Agent's charges for settlement of the Closing.

11. **SERVICE CONTRACTS.** Buyer shall notify seller in writing within ten (10) days of the Site Plan Approval Date which Service Contracts, if any, that Buyer elects to assume at Closing. Failure to provide such notice shall be deemed an election not to assume any of the Service Contracts. All Service Contracts not being assumed by Buyer shall be terminated by Seller and no obligations thereunder shall survive Closing.

12. **TITLE.**

A. **Commitment and Survey.** Buyer shall attempt to obtain, at Buyer's sole cost, a standard ALTA title insurance commitment (the "Title Commitment") from Escrow Agent (also to be referred to as "Title Company") for an owner's title insurance policy, in the full amount of the Purchase Price, insuring Buyer as the fee simple owner of the Property. Buyer may attempt to obtain, at Buyer's sole cost, an ALTA survey of the Property (the "Survey") sufficient in form and substance to enable the Title Company to remove its standard survey exception from the Title Commitment.

B. **Title Defects and Cure.** If the Title Commitment or the Survey (collectively, the "Title Evidence") disclose any claims, liens, exceptions, encumbrances or conditions that are not acceptable to Buyer in its sole discretion ("Defects"), then such Defects shall be cured, removed, or waived prior to Closing in accordance with this Section 12. Notwithstanding anything to the contrary contained elsewhere herein, any Liquidated Items (defined below) may be removed at or prior to the Closing Date.

C. **Title Objections and Notice.** Buyer may deliver one or more notices (each a "Title Objection Notice") to Seller specifying any such Defects to the Title Commitment prior to the Inspection Period End Date. And Buyer may deliver one or more notices (each a "Survey Objection Notice") to Seller specifying any such Defects to the Survey prior to Inspection Period End Date. Buyer may deliver one or more notices (each an "Updated Title/Survey Objection Notice") (Title Objection Notice, Survey Objection Notice, and Updated Title/Survey Objection Notices shall collectively be referred to as "Title Notices") to Seller specifying any lien, claim, encumbrance, restriction, covenant, condition, exception to title or other matter (other than Permitted Exceptions, as defined below) that first arises, or is first disclosed to Buyer, subsequent to the delivery of the applicable item of Title Evidence to Buyer and that renders title or survey unacceptable to Buyer in its sole discretion prior to the earlier to occur of (x) the expiration of five (5) business days after the receipt by Buyer of such update to the Title Evidence or (y) the Closing. Buyer shall provide to Seller copies of all Title Evidence referenced in any Title Notices simultaneously with delivery of such Title Notices. All Defects noted on any Title Notices shall be collectively referred to herein as the "Title Defects." Buyer shall be deemed to have waived its right to object to any encumbrance or other title exception reflected on the Title Commitment or Survey unless Buyer shall have given a specific written objection to such matter(s) in any Title Notices delivered to Seller prior to the Inspection Period End Date. Buyer shall be deemed to have waived its right to object to any encumbrance or other title exception reflected on any update of the Title Evidence unless Buyer shall have given a specific written objection to such matter to Seller prior to the earlier to occur of (A) 5:00 p.m. on the day that is five (5) business days after the day Buyer receives such update to the Title Evidence or (B) the Closing. Upon Buyer's failure to timely object, any encumbrance or other title exception or matter reflected in the Title Evidence, and any update thereof, shall thereafter be deemed a Permitted Exception.

D. **Seller Cure Notice; Seller's Cure Items.** Within ten (10) business days after Buyer delivers any Title Notices, Seller shall advise Buyer in writing ("Seller's Cure Notice") which, if any, of the Defects specified in the applicable Title Notices Seller is willing to attempt to cure. Seller shall have the right, at its sole option and expense, to (a) either (i) attempt to remove any encumbrance or other title exception or matter specified in the Title Notices (the "Seller's Cure Items"), or (ii) with respect to matters affecting title to the Property,



provide the Title Company such assurances as the Title Company requires to insure Buyer against any loss arising from such Seller Cure Items, or (b) elect to do neither (i) nor (ii). In the event that Seller delivers a Seller's Cure Notice identifying any Seller's Cure Items, but Seller then fails to cure or remove (by endorsement or otherwise in form and substance reasonably acceptable to Buyer) such Seller's Cure Items within 40 days after delivery of the corresponding Title Notice (the "Cure Deadline"), Buyer may, in its sole discretion and by delivery of notice to Seller on or prior to Closing, elect to (a) terminate this Agreement, whereupon the Deposits, and any accrued interest thereon shall be returned to Buyer, and Seller and Buyer shall have no further rights or obligations to one another hereunder, except those that survive closing as provided herein; or (b) proceed to Closing with the Property as it then is, with no reduction in the Purchase Price. In the event that Seller fails to timely deliver a Seller's Cure Notice, or in the event that a Seller's Cure Notice (specifying Seller's Cure Items) does not include all of the Defects specified in each of the Title Notices, then Buyer may, in its sole discretion and by delivering notice to Seller within 10 business days after the expiration of the Cure Deadline, (a) terminate this Agreement, whereupon the Deposits and any accrued interest thereon shall be returned to Buyer, and Seller and Buyer shall have no further rights or obligations to one another hereunder, except those that survive closing; or (B) elect to proceed to Closing, accepting the Property subject to those Title Defects not included in Seller's Cure Notice.

E. Permitted Exceptions. For purposes of this Agreement, the term, "Permitted Exceptions," shall mean both (i) all liens, claims, encumbrances, restrictions, covenants, conditions, matters or exceptions to title (other than Liquidated Items) that are set forth in the Title Evidence, but not objected to by Buyer in a Title Notice; and (ii) any Seller Cure Items or other Title Defects that Seller fails to cure or remove and Buyer nevertheless elects to waive by proceeding to Closing.

F. Liquidated Items. Notwithstanding any other provision of this Agreement, Seller shall be unconditionally obligated to cure or remove the following defects, whether described in the Title Commitment, or first arising or first disclosed by the Title Company (or otherwise) to Buyer after the effective date of the Title Commitment, and whether or not raised in a Title Objection Notice (collectively, the "Liquidated Items"): (a) liens securing a mortgage, deed of trust and any ancillary encumbrances, including but not limited to, assignments of leases, rents or proceeds and UCC-1 financing statements; and (b) all judgment liens, liens, notices of lis pendens, attachments and any other matters evidencing monetary encumbrances (other than liens for non-delinquent property taxes); and (c) any options or rights of purchase. At or prior to Closing, such Liquidated Items shall be cured or removed (by endorsement or otherwise in form and substance reasonably acceptable to Buyer and the Title Company) from the Title Evidence by Seller, at Seller's sole cost and expense.

### 13. BUYER'S INDEPENDENT INVESTIGATION.

A. From and following the Inspection Period End Date, Buyer will be deemed to have acknowledged and agreed that it has been given a full opportunity to inspect and investigate each and every aspect of the Property, either independently or through agents of Buyer's choosing, including, without limitation: (a) all matters relating to title and survey, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements and building codes; and (b) the physical condition and aspects of the Property, including, without limitation, the interior, the exterior, the square footage within the improvements on the Property, the structure, seismic aspects of the Property, the foundation, roof, paving, parking facilities, utilities, and all other physical and functional aspects of the Property. Such examination of the physical condition of the Property shall include an examination for the presence or absence of Hazardous Substances. For purposes of this Agreement, "Environmental Laws" shall mean: all past, present or future federal, state and local statutes, regulations, directives, ordinances, rules, policies, guidelines, court orders,

decrees, arbitration awards and the common law, which pertain to environmental matters, contamination of any type whatsoever or health and safety matters, as such have been amended, modified or supplemented from time to time (including all present and future amendments thereto and re-authorizations thereof). For purposes of this Agreement, "Hazardous Substances" shall mean: any chemical, pollutant, contaminant, pesticide, petroleum or petroleum product or by product, radioactive substance, solid waste (hazardous or extremely hazardous), special, dangerous or toxic waste, substance, chemical or material regulated, listed, limited or prohibited under any Environmental Law.

B. Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by Seller or its agents to Buyer or buyer's representatives in connection with the transaction contemplated hereby. Buyer acknowledges and agrees that all materials, data and information delivered by Seller to Buyer in connection with the transaction contemplated hereby are provided to Buyer as a convenience only and that any reliance on or use of such materials, data or information by Buyer shall be at the sole risk of Buyer.

C. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT (COLLECTIVELY, THE "SELLER UNDERTAKINGS"), BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN "AS IS, WHERE IS, WITH ALL FAULTS" BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER OR ITS AGENTS OR BROKERS, OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER, AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Property and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity or the compliance of the Property with Environmental Laws, (vii) the presence of Hazardous Substances on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Property, (ix) the condition of title to the Property, (x) the value, economics of the operation or income potential of the Property, or (xi) any other fact or condition which may affect the Property, including without limitation, the physical condition, value, economics of operation or income potential of the Property.

D. Without limiting the above and except to the extent of a breach of the Seller Undertakings, Buyer on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, Seller, Seller's affiliates and advisors, the partners, trustees, beneficiaries, shareholders, members, managers, directors, officers, employees and agents and representatives of each of them, and their respective heirs, successors, personal representatives and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, court costs and attorneys' fees and disbursements), whether direct or indirect,

known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and the presence of Hazardous Substances on, under or about the Property, or (ii) any law or regulation applicable to the Property, including, without limitation, any Environmental Law and any other federal, state or local law.

E. WAIVER OF CONSUMER RIGHTS. BUYER HEREBY WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES -- CONSUMER PROTECTION ACT, SECTION 17.41, ET SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. BUYER HEREBY REPRESENTS AND WARRANTS TO SELLER THAT: (I) BUYER IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO SELLER; (II) BUYER IS REPRESENTED BY LEGAL COUNSEL THAT IS NEITHER DIRECTLY NOR INDIRECTLY IDENTIFIED, SUGGESTED OR SELECTED BY SELLER; AND (III) BUYER VOLUNTARILY CONSENTS TO THIS WAIVER AFTER CONSULTATION WITH ITS LEGAL COUNSEL.

14. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller represents and warrants to Buyer that the following are true, accurate and complete as of the Effective Date and will be true, accurate and complete as of Closing:

A. Authority. Seller has the full right, power and authority to enter into this Agreement and all documents contemplated hereby, and consummate the transaction contemplated by this Agreement. All requisite action has been or will be taken by Seller in connection with the consummation of the transaction contemplated hereby. The person(s) and/or entity(ies) signing this Agreement and the other documents contemplated by this Agreement on behalf of Seller have the legal right, power and authority to bind Seller.

B. No Conflicts. The execution, delivery and performance by Seller of this Agreement and the instruments referenced herein and the transaction contemplated hereby will not conflict with, or with or without notice or the passage of time or both, result in a breach of, violate any term or provision of, or constitute a default under any articles of formation, bylaws, partnership agreement, operating agreement, indenture, deed of trust, mortgage, contract, lease, agreement, judicial or administrative order, or any law to which Seller or the Property is bound. Except for this Agreement and those disclosed in the Seller Deliveries, there are no agreements, contracts, licenses, leases, rental agreements, invoices, bills, undertakings or understandings affecting all or any portion of the Property, none of which shall survive Closing unless Buyer elects to assume same.

C. Consents; Binding Obligations. No approval or consent is required from any third party for Seller to execute, deliver or perform this Agreement or the other instruments contemplated hereby or for Seller to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms.

D. No Bankruptcy. No petition in bankruptcy (voluntary or otherwise), attachment, execution proceeding, assignment for the benefit of creditors, or petition seeking reorganization or insolvency, arrangement or other action or proceeding under federal or state bankruptcy law is pending against or contemplated (or, to Seller's knowledge, threatened) by or against Seller or any general partner or managing member of Seller.

E. Condemnation. Seller has no knowledge of any pending or threatened condemnation proceedings affecting the Property.

F. Litigation. There are no actions, suits, proceedings or claims pending, or to Seller's knowledge, or threatened, before any court, commission, regulatory body, administrative agency or other governmental or quasi-governmental body with respect to the Property.

G. Compliance With Laws. Seller has not received written notice from any governmental authority of any violations of any laws affecting or applicable to any or all of the Property which remains uncured.

H. Hazardous Materials. Seller has no knowledge of and has not received written notice from any governmental entity alleging that the Property is not in compliance with Environmental Laws, which non-compliance remains uncured.

I. Employees. There are no employees of Seller engaged in the operation or maintenance of the Property.

J. FIRPTA. Seller is a "non-foreign person" within the meaning of Section 1445 of the United States Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

K. OFAC; Patriot Act. Neither Seller nor any of its respective constituent owners or affiliates is in violation of any laws relating to terrorism or money laundering (collectively, the "Anti-Terrorism Laws"), including without limitation Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order") and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "USA Patriot Act"). Neither Seller nor any of its respective constituent owners or affiliates is a "Prohibited Person," which is defined as follows: (A) a person or entity that is listed in the Annex to, or is otherwise subject to, the provisions of the Executive Order; (B) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (C) a person or entity who commits, threatens or conspires to commit or support "terrorism" as defined in Section 3(d) of the Executive Order; (D) a person or entity that is named as a "specially designated national and blocked person" on the then-most current list published by the U.S. Treasury Department Office of Foreign Assets Control; and (E) a person or entity who is affiliated with a person or entity listed in items (A) through (D), above.

L. Alteration. Seller shall not at any time after the Effective Date, without Buyer's prior written approval, alter the condition of the title to the Property or materially adversely alter a condition of survey at the Property, or otherwise enter into a modification of any lease that does not also provide landlord the right to terminate said lease upon thirty (30) days prior written notice, or entering into a lease which does not also provide landlord the right to terminate said lease upon thirty (30) days prior written notice. Should Buyer fail to approve or deny any foregoing request submitted by or on behalf of Seller within ten (10) days of Buyer's receipt of such request, Seller's request shall be deemed approved. Notwithstanding the foregoing, for those lease modifications and new leases that include landlord's right to terminate the lease upon thirty (30) days prior written notice (collectively the "Short Term Leases"), Seller shall promptly provide Buyer with written notice of any such modification or new lease entry, but without any right of Buyer to approve.

M. Mechanic's Liens. No labor, material or services have been furnished by or at the direction of Seller, Seller's licensees, employees or agents, on or about the Property or any portion thereof which have not

heretofore been paid for in full and no mechanic's, laborer's or materialmen's liens or claims therefor might arise on account thereof.

Seller's Knowledge. All references in this Agreement to "Seller's knowledge," "Seller's actual knowledge" or words of similar import shall refer only to the actual (as opposed to deemed, imputed or constructive) knowledge of Lauren K. Pugliese, a second vice president of Seller, without inquiry or investigation of any kind, and, notwithstanding any fact or circumstance to the contrary, shall not be construed to refer to the knowledge of any other person or entity except for employees and agents of Seller.

15. **REPRESENTATIONS AND WARRANTIES OF BUYER.** Buyer represents and warrants to Seller that the following are true, accurate and complete as of the Effective Date and will be true, accurate and complete as of Closing:

A. Authority. Buyer is a Virginia limited liability company duly organized, validly existing and in good standing under the laws of the state of its organization. Buyer has the full right, power and authority to enter into this Agreement and all documents contemplated hereby, and consummate the transaction contemplated by this Agreement. All requisite action has been or will be taken by Buyer in connection with the consummation of the transaction contemplated hereby. The person(s) and/or entity(ies) signing this Agreement and the other documents contemplated by this Agreement on behalf of Buyer have the legal right, power and authority to bind Buyer.

B. No Conflicts. The execution, delivery and performance by Buyer of this Agreement and the instruments referenced herein and the transaction contemplated hereby will not conflict with, or with or without notice or the passage of time or both, result in a breach of, violate any term or provision of, or constitute a default under any articles of formation, bylaws, partnership agreement, operating agreement, indenture, deed of trust, mortgage, contract, agreement, judicial or administrative order, or any law to which Buyer is bound.

C. Consents; Binding Obligations. No approval or consent is required from any third party for Buyer to execute, deliver or perform this Agreement or the other instruments contemplated hereby or for Buyer to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by Buyer are and shall be valid, legally binding obligations of and enforceable against Buyer in accordance with their terms.

D. No Bankruptcy. No petition in bankruptcy (voluntary or otherwise), attachment, execution proceeding, assignment for the benefit of creditors, or petition seeking reorganization or insolvency, arrangement or other action or proceeding under federal or state bankruptcy law is pending against or contemplated (or, to Buyer's knowledge, threatened) by or against Buyer or any principal in Buyer.

E. OFAC; Patriot Act. Neither Buyer nor any of its respective constituent owners or affiliates is in violation of any Anti-Terrorism Laws, including without limitation the Executive Order and/or the USA Patriot Act. Neither Buyer nor any of its respective constituent owners or affiliates is a "Prohibited Person."

16. **LIMITATIONS.** The Representations and Warranties of Seller and Representations and Warranties of Buyer (collectively, the "Representations"), shall survive the Closing Date and the delivery of the Deed for a period of one (1) year. No claim for a breach of any Representation, or the failure or default of a covenant or agreement of either party that survives Closing, shall be actionable or payable unless (a) the breach in question results from, or is based on, a condition, state of facts or other matter which was not disclosed to, or not actually known by, the party claiming the breach prior to Closing, and (b) written notice containing a description

of the specific nature of such breach shall have been delivered by such party to the other prior to the expiration of said survival period, and an action with respect to such breach(es) shall have been commenced by the party claiming the breach within one (1) year after Closing. Notwithstanding anything to the contrary contained herein, if a party learns through any diligence delivery or is otherwise notified in writing by the other party, or otherwise obtains actual (as opposed to deemed, imputed or constructive) knowledge, that any Representation made by the other party is not true or correct as of the Effective Date, or that such Representation is not true or correct on or before the Closing, or learns through any diligence delivery or otherwise, that the other party has failed to perform any covenant and agreement of such party herein contained and the party learning of such matter shall nevertheless proceed to Closing notwithstanding such fact, the party who has learned of such matter shall not be entitled to commence any action after Closing to recover damages from the other due to such Representation(s) failing to be true or correct, or such covenant(s) and agreement(s) having failed to be performed by the other. Notwithstanding the foregoing, the parties agree to limit their liability from any breach of a Representation to \$100,000 in the aggregate. Buyer's remedies for a breach of the Representations of Seller, discovered after Closing shall not be limited by Section 17.

17. **SELLER DEFAULT.** If Seller refuses, fails, or is unable to perform, in any material respect, any of its covenants hereunder when performance is required or as of the Closing Date, or if any of Seller's representations should be false in any material respect when made and Buyer shall become aware of same on or prior to the Closing Date ("Seller Default"), then Buyer shall give Seller notice of such Seller Default on or prior to the Closing Date and Seller shall have five (5) business days from the date of receipt of such notice to cure such Seller Default and the Closing Date shall be extended accordingly. If Seller fails to cure such Seller Default within such five (5) business day period, then Buyer may elect to: (i) pursue specific performance of all of Seller's duties and obligations under this Agreement; or (ii) terminate this Agreement by notifying Seller and the Escrow Agent thereof, in which event the Escrow Agent shall return the Deposits, and any accrued interest thereon to Buyer, whereupon no party shall have any further liability or obligation to any other party under this Agreement, except for those obligations or liabilities which survive a termination of this Agreement including, without limitation, Buyer's ability to recover its out of pocket expenses incurred in connection with this Agreement in an amount up to \$250,000 in the aggregate; or (iii) waive such Seller Default and proceed to Closing.

18. **BUYER DEFAULT.** The parties acknowledge and agree that Seller should be entitled to compensation for any detriment suffered if Buyer fails to consummate the acquisition of the Property if and when required to do so under the terms of this Agreement but agree that it would be extremely difficult to ascertain the extent of the actual detriment Seller would suffer as a result of such failure. Consequently, if Buyer fails to consummate the acquisition of the Property or fails to perform any of its other covenants in any material respect, or otherwise defaults in its obligations hereunder in any material respect ("Buyer Default"), then, as Seller's sole remedy, Seller shall give Buyer notice of such Buyer Default hereunder and except as provided in Sections 6 and 7 above, Buyer shall have five (5) business days from the date of receipt of such notice to cure such Buyer Default. If Buyer fails to cure such Buyer Default within such five (5) business day period then Seller, as its sole and exclusive remedy, shall be entitled to terminate this Agreement by giving notice thereof to Buyer, in which event the Deposits plus any accrued interest, shall be paid to Seller as fixed, agreed and liquidated damages, and, after the payment of the Deposits plus any accrued interest thereon to Seller, neither Seller nor Buyer will have any further rights or obligations under this Agreement, except for any obligations that expressly survive termination.

19. **PARTIES BOUND.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

20. **APPLICABLE LAW.** This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of laws principles. The parties irrevocably agree to non-exclusive personal jurisdiction in the Commonwealth of Virginia and that venue shall be proper only in the Courts of the County of York, Virginia.

21. **COMMISSION.** Seller and Buyer each warrant to the other that they have dealt with no agent or broker with respect to the transaction contemplated by this Agreement, other than Jeff Fritz of Colliers International (“Buyer’s Broker”), representing Buyer in this transaction, and Jay Joseph, Andy Stein, and Matt Leffler of Harvey Lindsay (“Seller’s Brokers”), representing Seller in this transaction (the “Brokers”). Seller shall pay Seller’s Brokers a fee per a separate agreement and from which fee Seller’s Broker shall pay to Buyer’s Broker a fee at Closing in an amount set forth in the same separate agreement. In the event that any claim for commission or finder’s fee is brought by any other person or entity than the Brokers whatsoever as a consequence of the transaction contemplated hereby and as a result of any action or omission of either Seller or Buyer (whichever party is alleged to have committed the act or omission which is the basis of such claim), then Seller or Buyer, as the case may be, shall indemnify and hold harmless the other party against any loss, cost, or expense of any nature, including, but not limited to, court costs and reasonable attorneys’ fees, arising as a consequence of such claim for the commission or fee.

22. **CLOSING DELIVERIES AND PRORATIONS.** At Closing, the parties shall deliver or cause to be delivered to the other party or to the Title Company in escrow the following:

A. **Seller’s Closing Deliveries.** Seller shall execute and deliver or cause to be delivered to Buyer or to the Escrow Agent in escrow the following:

- i. **Deed.** A special warranty deed (the “Deed”), executed by Seller conveying the Real Property to Buyer, subject only to the Permitted Exceptions.
- ii. **Assignment of Leases.** One (1) duly executed counterpart of an Assignment and Assumption of Leases in such form and substance reasonably approved by the parties and including indemnification from the Seller for all liabilities arising prior to Closing (the “Assignment of Leases”) conveying the Leases to Buyer.
- iii. **Assignment of Contracts.** One (1) duly executed counterpart of an Assignment and Assumption of Contracts and Other Property in such form and substance reasonably approved by the parties and including indemnification from the Seller for all liabilities arising prior to Closing (the “Assignment of Contracts”) conveying the Intangible Personal Property to Buyer.
- iv. **Bill of Sale.** A bill of sale in such form and substance reasonably satisfactory to Seller and Buyer conveying the Personal Property to Buyer.
- v. **Notices to Tenants.** Notices to each of the tenants under the Leases, notifying them of the sale of the Property and directing them to pay all future rent as Buyer may direct, in such form as reasonably approved by the parties.
- vi. **Closing Statement.** A closing statement conforming to the proration and other relevant provisions of this Agreement.

- vii. Organizational Documents. Evidence reasonably satisfactory to the Title Company respecting the due organization of Seller and the due authorization and execution by Seller of the documents required to be delivered hereunder.
- viii. Entity Transfer Certificate. Entity Transfer Certification confirming that Seller is a “United States Person” within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- ix. Owner’s Affidavit. An Owner’s/Seller’s Commercial Affidavit as to Mechanic’s Liens and Possession acceptable to the Title Company.
- x. Other. Such other documents and instruments as may reasonably be required to consummate this transaction and to otherwise effect the agreements of the parties hereto.

B. Buyer’s Closing Deliveries. At Closing, Buyer shall execute and deliver or cause to be delivered to Seller or to the Escrow Agent in escrow the following:

- i. Purchase Price. The Purchase Price shall be delivered to the Title Company in escrow for disbursement to Seller and other payees in accordance with the closing statement.
- ii. Assignment of Leases. One (1) Assignment of Leases executed in counterpart by Buyer.
- iii. Assignment of Contracts. One (1) Assignment of Contracts executed in counterpart by Buyer.
- iv. Closing Statement. A closing statement conforming to the proration and other relevant portions of this Agreement.
- v. Organizational Documents. Evidence reasonably satisfactory to the Title Company respecting the due organization of Buyer and the due authorization and execution by Buyer of the documents required to be delivered hereunder.
- vi. Other. Such other documents and instruments as may reasonably be required to consummate this transaction and to otherwise effect the agreements of the parties hereto.

C. Prorations and Adjustments. Generally, items of revenue and expense relating to the Property which are not the obligation of tenants under the Leases shall be prorated as of 11:59 p.m. on the day prior to the Closing Date (the “Adjustment Time”). Specifically, the following items shall be prorated and adjusted between Seller and Buyer as of the Adjustment Time, except as otherwise specified:

- i. Utilities and Operating Expenses. To the extent not paid by tenants as a component of Additional Rent (as hereinafter defined) or otherwise, water, electricity, sewer, gas, telephone and other utility charges based, to the extent practicable, on final meter readings and final invoices, shall be prorated as of the Adjustment Time to the extent practicable. To the extent not paid by tenants as a component of Additional



Rent or otherwise, any operating expenses shall be prorated between Buyer and Seller, with Seller receiving a credit for any operating expenses paid by Seller and related to the period from and after Closing.

ii. Security Deposits. The amount of all cash security and any other cash tenant deposits then held by Seller, and interest due thereon to date, if any, shall be credited to Buyer as of the Adjustment Time.

iii. Rents. All base rent ("Base Rent"), additional rent and other charges under Leases, including, without limitation, all tenant contributions relating to real estate taxes, operating expenses, utilities, insurance premiums, common area maintenance charges and similar "pass-through" items and cost-of-living or other adjustments shall be adjusted as follows. For purposes hereof, all additional rent and other charges other than Base Rent are referred to as "Additional Rent."

(a) Base Rents for the month in which the Closing occurs shall be adjusted on a per diem basis based upon the number of days in such month prior to the Adjustment Time (which shall be allocated to Seller) and the number of days in such month after the Adjustment Time (which shall be allocated to Buyer).

(b) To the extent that Additional Rent is paid on a monthly basis based on estimates, all sums collected by Seller prior to the Closing that are in excess of amounts payable by Seller for the period prior to the Adjustment Time shall be credited to Buyer.

(c) To the extent that Additional Rent is paid annually or periodically in a determined rather than estimated amount, sums collected by Seller prior to the Closing that are applicable to periods after the Adjustment Time shall be credited to Buyer.

iv. Assessments. To the extent not paid by tenants under the Leases as a component of Additional Rent or otherwise, all assessments, general or special, shall be prorated as of the Adjustment Time, with Seller being responsible for any installments of assessments that relate to the period prior to the Adjustment Time and Buyer being responsible for any installments of assessments that relate to the period after the Adjustment Time.

v. Taxes. To the extent not paid by tenants under the Leases as a component of Additional Rent or otherwise, all non-delinquent real estate taxes on the Real Property shall be prorated as of the Adjustment Time based on the actual current tax bill, but if such tax bill has not yet been received by Seller by the Closing, then the parties shall prorate on the basis of the most recently ascertainable full tax bill.

D. Leasing Costs. Seller agrees to pay or discharge at or prior to Closing all leasing commissions, costs for tenant improvements, legal fees and other costs and expenses (collectively, "Leasing Costs") that are actually due and payable prior to Closing with respect to leases in force as of or prior to the Effective Date.

E. Final Adjustment After Closing. If final bills are not available or cannot be issued prior to Closing for any item being prorated under Section 21(C), then Buyer and Seller agree to allocate such items on a fair and equitable basis as soon as such bills are available, final adjustment to be made as soon as reasonably possible after the Closing. Payments in connection with the final adjustment shall be due within thirty (30) days of written notice. All such rights and obligations shall survive the Closing for a period of six (6) months, after which time if final bills are not available the parties agree to accept as final the allocation made at Closing.

F. Lease Obligations. Seller shall, in good faith, manage the Property through Closing in accordance with its existing practices prior to the Effective Date including, without limitation, the collection of rent and the enforcement of leases. Notwithstanding any other provision of this Agreement, any delinquent rent due from tenants for periods prior to Closing and collected by Buyer after Closing shall be the sole and exclusive property of Buyer.

23. NON-MERGER. The provisions of this Agreement shall survive the Closing hereunder and the execution and delivery of the Deed and shall not be merged therein.

24. TOTAL AGREEMENT. This Agreement contains the full and final agreement between the parties hereto with respect to the sale and purchase of the Property. Buyer and Seller shall not be bound by any terms, conditions, statements, warranties, or representations, oral or written, not contained herein. No change or modification of this Agreement shall be valid unless the same is in writing and is signed by the parties hereto. No waiver of any of the provisions of this Agreement shall be valid unless the same is in writing and is signed by the party against which it is sought to be enforced. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid, illegal or unenforceable by the final and unappealable order, decree or judgment of any court, then such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if it did not contain such phrases, sentences, clauses or paragraphs.

25. NOTICES All notices, demands, or other communications that may be necessary or proper hereunder shall be in writing and shall be deemed to be delivered: (i) the same day if delivered by hand, (ii) one (1) day following deposit with a nationally recognized overnight courier service (costs prepaid), (iii) the same day when sent by email to the parties identified below (with a copy sent by one other permitted means of delivery) or (iv) when received following deposit of same in a U.S. Postal Service receptacle, postage prepaid as registered or certified mail, return receipt requested. The parties agree that they shall also supply email addresses for copies of correspondence, delivery of documents and facilitation of correspondence related to the transactions contemplated hereby. A party may elect (via email or otherwise) to have notices, demands and other communications sent by email and upon such election, all email correspondence shall be deemed a writing and delivered upon confirmed transmission. Notices shall be addressed as follows:

Buyer: Marlyn Development Corporation  
Attn: Brian Staub, CFO  
308 35<sup>th</sup> Street, Suite 101  
Virginia Beach, Virginia 23451  
Phone No: 757-437-1677  
Email: bstaub@marlyndv.com

With a copy to:  
Timothy O. Trant II, Esq.  
Kaufman & Canoles, P.C.  
11815 Fountain Way, Suite 400  
Newport News, VA 23606  
Phone No: 757-259-3823  
Email: totrant@kaufcan.com

Seller: AMERITAS LIFE INSURANCE CORP.  
5900 O Street  
Lincoln, NE 68510  
Attention: Real Estate Dept.  
  
Fax No: (402) 467-6970  
Phone No: (402) 467-6957  
Email: adam.karavas@ameritas.com and lpugliese@ameritas.com

With a copy to: Seller's Counsel:  
  
AMERITAS LIFE INSURANCE CORP.  
Attn: Steve Christophersen  
5900 O Street  
Lincoln, NE 68510  
  
Fax No: (402) 467-6970  
Phone No: (402) 467-7855  
Email: schristophersen@ameritas.com

For all Property inspection related notices described in Section 5, with an emailed copy to:

Seller's Property Manager:  
  
Ronda Ross  
Harvey Lindsay Commercial Real Estate  
999 Waterside Drive, Suite 1400  
Norfolk, VA 23510  
Phone No: (757) 416-7004  
Email: rondaross@harveylindsay.com

Buyer's Broker: Jeff Fritz  
Colliers International  
150 West Main Street, Ste 1100  
Norfolk, VA 23510  
Phone No:(757) 228-1840  
Email: jeff.fritz@colliers.com

Seller's Broker: Andy Stein  
Harvey Lindsay Commercial Real Estate  
999 Waterside Drive, Suite 1400  
Norfolk, VA 23510  
Phone No: (757) 640-9463  
Email: andystein@harveylindsay.com

Any party hereto may change its address for notice purposes hereunder by delivering notice thereof to the other

parties in accordance with the foregoing. Rejection or refusal to accept, or the inability to deliver because of a changed address of which no notice was given shall not affect the validity of notice given in accordance with this Section 25.

26. **ASSIGNMENT.** Buyer may assign this Agreement in whole or in part without the prior consent of Seller so long as the assignee is an entity with which Marlyn Development Corporation is affiliated, and upon any such assignment by Buyer, the assignee shall expressly assume all of Buyer's obligations hereunder and Buyer shall have no further obligations hereunder. Prior written consent of Seller is needed if Buyer assigns this Agreement to an entity or individual not affiliated with Marlyn Development Corporation.

27. **CONDEMNATION.** Upon receipt of an offer or any notice or communication from any governmental or quasigovernmental body seeking to take under its power of eminent domain all or any part of the Property, Seller shall promptly notify Buyer of receipt of same and shall promptly send such communication, or a copy thereof, to Buyer. In the event the condemnation or eminent domain proceeding which is the subject of said notice would if completed render the remaining Property unsuitable for its Intended Use, as determined by Buyer in its reasonable discretion, (a "Material Condemnation"), Buyer shall have the right to rescind this Agreement by delivery of written notice thereof to Seller within 15 business days of its receipt of said notice from Seller. If the Closing Date would occur prior to the expiration of said 15 business day period, then the Closing Date shall be automatically extended to the date that is 5 business days after the expiration of said 15 business day period. In the event that Buyer elects to rescind, then this Agreement shall be null and void and have no further force and effect and the Deposits shall be returned immediately to Buyer together with accrued interest thereon. In the event that Buyer does not elect to rescind and the portion of the Property so required by the condemning authority is taken on or before the Closing, then: (i) the proceeds of such condemnation or sale in lieu thereof shall be retained by Seller in which event the Purchase Price shall be reduced by the amount of such proceeds retained by Seller, and (ii) the Property so taken or sold shall not be subject to this Agreement. In the event that Buyer does not elect to rescind this Agreement as permitted above in this Section 27 and the portion of Property so required by the condemning authority is taken after Closing, then all proceeds of such condemnation or sale in lieu thereof shall be the sole and exclusive property of Buyer. Seller and Buyer agree to cooperate with each other to obtain the highest and best price for the condemned Property.

28. **HEADINGS.** The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

29. **WEEKENDS AND HOLIDAYS.** Any date specified in this Agreement for the performance of an obligation or expiration of a time period which is a Saturday, Sunday or a national holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday or a national holiday.

30. **COUNTERPART ORIGINALS.** This Agreement may be executed in multiple original or facsimile counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

31. **LITIGATION.** If there is any litigation, mediation or arbitration between Seller and Buyer to enforce or interpret any provision of or right under this Agreement, the predominantly unsuccessful party in such litigation, mediation or arbitration, as determined by the court, mediator or arbitrator, agrees to pay the predominantly successful party, as determined by the court, mediator or arbitrator, all reasonable costs, legal fees, and expenses (through trial and appeal), including, but not limited to, reasonable attorneys' fees and expert fees incurred by the predominantly successful party.

32. **SELLER'S COUNSEL.** Seller acknowledges and agrees that Seller has had the opportunity to review this Agreement with counsel and therefore this Agreement shall not be construed against either party.

33. **SIGNATURES.** Each person signing below on behalf of such party in their individual capacity represents and warrants to the other party that it is fully authorized to enter into this Agreement without the joinder of any other person or entity, and the person executing this Agreement on behalf of such party has full authority to do so and that any and all required corporate action has been taken.

*[remainder of page intentionally left blank, signatures on following page]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

**BUYER:**

MARLYN DEVELOPMENT CORPORATION, a Virginia corporation

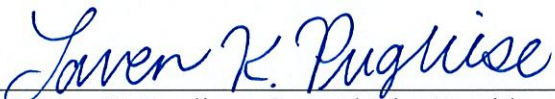
By:   
Its: Executive Vice President

**SELLER:**

AMERITAS LIFE INSURANCE CORP.,  
a Nebraska Corporation

By:   
Lauren K. Pugliese, Second Vice President

AMERITAS LIFE INSURANCE CORP. OF NEW YORK,  
a New York Insurance Company

By:   
Lauren K. Pugliese, Second Vice President

## EXHIBIT A

### Legal Description

ALL THOSE certain lots, pieces or parcels of land, lying, situate and being in the County of York, Virginia, being known, numbered and designated as Lots 38 and 39 on a certain plat entitled "Subdivision of Property and Plat of Lots 38 and 39 of Busch Properties, Inc., York County, Virginia to be conveyed to Sixty East Associates, a Virginia general partnership", dated October 27, 1978, and recorded in the Clerk's Office of the Circuit Court of York County, Virginia, in Plat Book 9, at page 269, the combined description of both lots by metes and bounds being as follows:

BEGINNING at an iron pin in the northern right-of-way of U.S. Route 60, York County, Virginia, whose geodetic coordinates are N. 337822.40 E. 2535941.544 (based on Virginia Plane Coordinate Grid System-South Zone); thence along the eastern property line of property as shown in Plat Book 9, Page 111, Clerk's Office of the Circuit Court, York County, Virginia, N. 54 degrees 24' 59" E. a distance of 250.65 feet to an iron pin; thence N. 43 degrees 28' 28" E. a distance of 40.00 feet to an iron pin in the southern line of Lot E as shown in Plat Book 9, Page 269 of the Clerk's Office of the Circuit Court of York County, Virginia; thence, along the southern line of said Parcel E, S. 46 degrees 31' 32" E. a distance of 1,098.53 feet to a pin in the western line of property as described in Deed Book 314, Page 562, in the Clerk's Office of the Circuit Court of York County, Virginia; thence, along said western line, S. 43 degrees 26' 28" W. a distance of 507.67 feet to an iron pin in the northern right-of-way of U.S. Route 60; thence, along the northern line of U.S. Route 60, N. 35 degrees 35' 01" W. a distance of 1,167.32 feet to the point of beginning.

The above described parcel contains 10.263 acres, as shown on a plat entitled, "SUBDIVISION OF PROPERTY AND PLAT OF LOTS 38 & 39 OF BUSCH PROPERTIES, INC. YORK COUNTY, VIRGINIA (PART OF FORMER TRACT A, PLAT BOOK 8, PAGE 427) TO BE CONVEYED TO SIXTY EAST ASSOCIATES, A VIRGINIA GENERAL PARTNERSHIP". The aforementioned plat is recorded in Plat Book 9, at Page 269, in the Clerk's Office of the Circuit Court of York County, Virginia.

LESS, SAVE AND EXCEPT Lot 38B conveyed to Ray N. Bjorkman and Charles D. Pittman, Jr. by deed dated December 9, 1988, recorded in the Clerk's Office of the Circuit Court of York County, Virginia, in Deed Book 537, at page 322 and Lot 38A conveyed to Wendy's International, Inc. by deed dated October 31, 1991, recorded in the aforesaid Clerk's Office in Deed Book 633, at page 470.

IT BEING the same property conveyed to Old Strand, LLC, a Virginia limited liability company from Village Shops, LLC, a Virginia limited liability company by deed dated July 19, 2005, and recorded July 20, 2005, as Instrument No. 050017661.

## FIRST AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT

24<sup>th</sup> This First Amendment to Real Estate Purchase Agreement (the "Amendment") is made this day of June, 2019, by and between **AMERITAS LIFE INSURANCE CORP.**, a Nebraska corporation, and **AMERITAS LIFE INSURANCE CORP. OF NEW YORK**, a New York insurance company (collectively the "Seller"), and **MARLYN DEVELOPMENT CORPORATION**, a Virginia corporation, or assigns ("**Buyer**").

### RECITALS:

A. Seller and Buyer entered into a Real Estate Purchase Agreement (the "Contract"), dated as of May 13, 2019, for the purchase and sale of certain real property located in the County of York, Virginia, and more particularly described in the Contract as the Property.

B. Buyer and Seller desire to amend and supplement the Contract as more particularly provided below.

### AGREEMENT:

For and in consideration of the above recitals which are incorporated herein by reference, the mutual promises contained herein, the sum of ten dollars cash in hand paid by Buyer to Seller, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The last paragraph of Section 5 of the Contract is hereby deleted in its entirety and replaced with the following language:

"On or before 5:00 pm Eastern Standard Time on the one hundred and thirtieth (130<sup>th</sup>) day following the Effective Date (the "Inspection Period End Date"), Buyer may terminate the Agreement in its sole and absolute discretion for any reason or no reason, in which event this Agreement shall be of no further force or effect and, except as otherwise provided in this Agreement, no party shall have any further rights, obligations or liabilities under this Agreement, and Buyer shall receive back its Earnest Deposit plus the accrued interest thereon. If Buyer elects not to terminate this Agreement on or before the Inspection Period End Date, the Earnest Deposit plus the interest accrued thereon shall be non-refundable and shall be deemed earned by Seller, except in the event of a Seller Default or as set forth in Section 6 hereof."

2. Except as otherwise defined or as supplemented herein, all capitalized terms shall have the same meaning as in the Contract.

3. Except as expressly set forth in this Amendment, neither the Contract nor any provision thereof has been or is hereby amended. In furtherance of, and without in any manner limiting the foregoing, Buyer and Seller each hereby agree and acknowledge that the Contract, as amended hereby, remains in full force and effect and is hereby affirmed, confirmed and reaffirmed. If anything contained in this Amendment conflicts with any terms of the Contract, then the terms of this Amendment shall prevail.



4. This Amendment may be executed and delivered in any number of facsimile counterparts, each constituting an original but all together only one Amendment. This Amendment shall not be effective unless it is executed by all parties.

IN WITNESS WHEREOF, the parties have set their signatures as of the date indicated below.

[SIGNATURES LOCATED ON SUCCEEDING PAGES]

[SIGNATURE PAGE TO FIRST AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

SELLER:

AMERITAS LIFE INSURANCE CORP.,  
a Nebraska Corporation

By: Lauren K. Pugliese  
Lauren K. Pugliese, Second Vice President

Date: 6/24/19

AMERITAS LIFE INSURANCE CORP. OF NEW YORK,  
a New York Insurance Company

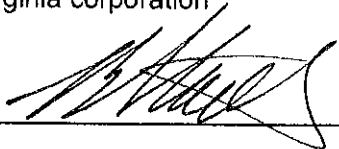
By: Lauren K. Pugliese  
Lauren K. Pugliese, Second Vice President

Date: 6/24/19

[SIGNATURE PAGE TO FIRST AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

BUYER:

MARLYN DEVELOPMENT CORPORATION,  
a Virginia corporation

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

Name: Brian Staub

Title: Executive Vice President

Date: 6/21/19

## SECOND AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT

This Second Amendment to Real Estate Purchase Agreement (the "Amendment") is made this 23<sup>rd</sup> day of September, 2019, by and between **AMERITAS LIFE INSURANCE CORP.**, a Nebraska corporation, and **AMERITAS LIFE INSURANCE CORP. OF NEW YORK**, a New York insurance company (collectively the "Seller"), and **MARLYN DEVELOPMENT CORPORATION**, a Virginia corporation, or assigns ("**Buyer**").

### RECITALS:

A. Seller and Buyer entered into a Real Estate Purchase Agreement, dated as of May 13, 2019, as amended by the First Amendment to Real Estate Purchase Agreement, dated June 24, 2019, (collectively, the "Contract") for the purchase and sale of certain real property located in the County of York, Virginia, and more particularly described in the Contract as the Property.

B. Buyer and Seller desire to amend and supplement the Contract as more particularly provided below.

### AGREEMENT:

For and in consideration of the above recitals which are incorporated herein by reference, the mutual promises contained herein, the sum of ten dollars cash in hand paid by Buyer to Seller, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The last paragraph of Section 5 of the Contract is hereby deleted in its entirety and replaced with the following language:

"On or before 5:00 pm Eastern Standard Time on October 7, 2019 (the "Inspection Period End Date"), Buyer may terminate the Agreement in its sole and absolute discretion for any reason or no reason, in which event this Agreement shall be of no further force or effect and, except as otherwise provided in this Agreement, no party shall have any further rights, obligations or liabilities under this Agreement, and Buyer shall receive back its Earnest Deposit plus the accrued interest thereon. If Buyer elects not to terminate this Agreement on or before the Inspection Period End Date, the Earnest Deposit plus the interest accrued thereon shall be non-refundable and shall be deemed earned by Seller, except in the event of a Seller Default, as set forth in the subsequent paragraph, or as set forth in Section 6 hereof.

Notwithstanding the foregoing, if Buyer determines, in its reasonable discretion, that the Intended Use is infeasible based on the results of its geotechnical analysis of the Property, then Buyer may terminate this Agreement by notifying Seller of same on or before October 31, 2019 along with a copy of the written geotechnical analysis and an explanation why the results render the Intended Use infeasible, in which event this Agreement shall be of no further force or effect and, except as otherwise provided in this Agreement, no party shall have any further rights, obligations or liabilities under this Agreement, and Buyer shall receive back its Earnest Deposit plus the accrued interest thereon. If Buyer elects not to terminate this Agreement as provided in this paragraph, the Earnest Deposit plus the interest

accrued thereon shall be non-refundable and shall be deemed earned by Seller, except in the event of a Seller Default or as set forth in Section 6 hereof'

2. Except as otherwise defined or as supplemented herein, all capitalized terms shall have the same meaning as in the Contract.

3. Except as expressly set forth in this Amendment, neither the Contract nor any provision thereof has been or is hereby amended. In furtherance of, and without in any manner limiting the foregoing, Buyer and Seller each hereby agree and acknowledge that the Contract, as amended hereby, remains in full force and effect and is hereby affirmed, confirmed and reaffirmed. If anything contained in this Amendment conflicts with any terms of the Contract, then the terms of this Amendment shall prevail.

4. This Amendment may be executed and delivered in any number of facsimile counterparts, each constituting an original but all together only one Amendment. This Amendment shall not be effective unless it is executed by all parties.

IN WITNESS WHEREOF, the parties have set their signatures as of the date indicated below.

[SIGNATURES LOCATED ON SUCCEEDING PAGES]

[SIGNATURE PAGE TO SECOND AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

SELLER:

AMERITAS LIFE INSURANCE CORP.,  
a Nebraska Corporation

By: Lauren K. Pugliese  
Lauren K. Pugliese, Second Vice President

Date: 9/23/19

AMERITAS LIFE INSURANCE CORP. OF NEW YORK,  
a New York Insurance Company

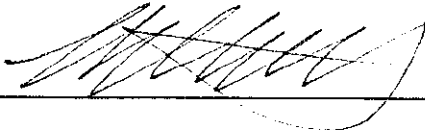
By: Lauren K. Pugliese  
Lauren K. Pugliese, Second Vice President

Date: 9/23/19

[SIGNATURE PAGE TO SECOND AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

BUYER:

MARLYN DEVELOPMENT CORPORATION,  
a Virginia corporation

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

Name: Brian Staub

Title: Executive Vice President

Date: 9/22/19

THIRD AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT

This Third Amendment to Real Estate Purchase Agreement (the "Amendment") is made this 28th day of August, 2020, by and between **AMERITAS LIFE INSURANCE CORP.**, a Nebraska corporation, and **AMERITAS LIFE INSURANCE CORP. OF NEW YORK**, a New York insurance company (collectively the "Seller"), and **MARLYN DEVELOPMENT CORPORATION**, a Virginia corporation, or assigns ("**Buyer**").

RECITALS:

A. Seller and Buyer entered into a Real Estate Purchase Agreement, dated as of May 13, 2019, as amended by the First Amendment to Real Estate Purchase Agreement, dated June 24, 2019, and as amended by the Second Amendment to Real Estate Purchase Agreement, dated September 23, 2019 (collectively, the "Contract") for the purchase and sale of certain real property located in the County of York, Virginia, and more particularly described in the Contract as the Property.

B. Buyer and Seller desire to amend and supplement the Contract as more particularly provided below.

AGREEMENT:

For and in consideration of the above recitals which are incorporated herein by reference, the mutual promises contained herein, the sum of ten dollars cash in hand paid by Buyer to Seller, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Section 7 of the Contract is hereby deleted in its entirety, and additionally Buyer hereby waives all outstanding contingencies and remaining conditions precedent to its obligation to close (save for those conditions listed in Section 8(i) – (iv) below) and Buyer shall proceed to close on the purchase of the Property as set forth in Section 8 of the Contract (revised as shown below in this Amendment).

2. Section 8 of the Contract is hereby deleted in its entirety and replaced with the following language:

"In the event all of the conditions precedent to Buyer and Seller's respective obligations hereunder have been satisfied or waived, closing under the terms of this Agreement ("Closing") shall be held at the offices of the Escrow Agent on or before October 31, 2020 (the "Closing Date"); provided, unless waived by Buyer, (i) there has been no change in the status of title from the Effective Date and title is shown to be good and marketable and in accordance with the provisions of this Agreement or is otherwise accepted by Buyer, (ii) there shall have been no material, adverse change after the Effective Date and prior to Closing in the nature or condition of or circumstances affecting the Property, including, without limitation, actual or potential condemnation that in Buyer's reasonable discretion would render the remaining Property unsuitable for its Intended Use, any change in areas determined to be flood prone, designated wetlands, governmental zoning ordinances (excluding the Application) having a material adverse effect on the Intended Use of the Property, or restrictions and requirements affecting ownership



and development of the Property for the Intended Use, (iii) all representations and warranties of Seller contained in this Agreement are true and correct in all material respects, and (iv) Seller has performed all its obligations under this Agreement. Risk of loss to the Property by casualty, subsidence or otherwise shall remain with Seller until Closing.”

3. Section 11 of the Contract is hereby deleted in its entirety and replaced with the following language:

“Buyer shall notify Seller in writing within thirty (30) days after the complete execution of this Amendment which Service Contracts, if any, that Buyer elects to assume at Closing. Failure to provide such notice shall be deemed an election not to assume any of the Service Contracts. All Service Contracts not being assumed by Buyer shall be terminated by Seller and no obligations thereunder shall survive Closing.”

4. Seller represents and warrants to Buyer that each of the Leases (which represent all of the leases or occupancy rights affecting the Property) are terminable by Seller upon thirty (30) days advance notice. Seller covenants and agrees to properly deliver to all tenants under the Leases all required notices and to take such other actions as may be required such that all Leases shall terminate on or before September 30, 2020.

5. Within three (3) business days after the complete execution of this Amendment, Buyer shall deliver to Escrow Agent an additional \$25,000.00 which shall be deemed to be a part of the Deposits and, as such, applicable to the Purchase Price and non-refundable to Buyer (except in the event of default by Seller).

6. Except as otherwise defined or as supplemented herein, all capitalized terms shall have the same meaning as in the Contract.

7. Except as expressly set forth in this Amendment, neither the Contract nor any provision thereof has been or is hereby amended. In furtherance of, and without in any manner limiting the foregoing, Buyer and Seller each hereby agree and acknowledge that the Contract, as amended hereby, remains in full force and effect and is hereby affirmed, confirmed and reaffirmed. If anything contained in this Amendment conflicts with any terms of the Contract, then the terms of this Amendment shall prevail.

8. This Amendment may be executed and delivered in any number of facsimile counterparts, each constituting an original but all together only one Amendment. This Amendment shall not be effective unless it is executed by all parties.

IN WITNESS WHEREOF, the parties have set their signatures as of the date indicated below.

[SIGNATURES LOCATED ON SUCCEEDING PAGES]

[SIGNATURE PAGE TO THIRD AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

SELLER:

AMERITAS LIFE INSURANCE CORP.,  
a Nebraska Corporation

DocuSigned by:  
*Lauren K. Pugliese*  
C1D5884F74DB4D1...  
By: \_\_\_\_\_  
Lauren K. Pugliese, Second Vice President

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

AMERITAS LIFE INSURANCE CORP. OF NEW YORK,  
a New York Insurance Company

DocuSigned by:  
*Lauren K. Pugliese*  
C1D5884F74DB4D1...  
By: \_\_\_\_\_  
Lauren K. Pugliese, Second Vice President

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

[SIGNATURE PAGE TO THIRD AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT]

BUYER:

MARLYN DEVELOPMENT CORPORATION,  
a Virginia corporation

By:  \_\_\_\_\_  
C2A314397450492...

Name: \_Brian Staub

Title: Chief Financial Officer

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

# York County, Virginia

1915 POCAHONTAS TRL

## General Information

**Map #:** 15 -09 -00 -038  
**GPIN:** G12b-4433-3390  
**Owner:** AMERITAS LIFE INSURANCE CORP  
 ETAL  
**Owner Address:** 999 WATERSIDE DR STE 1400  
**Owner Address(Cont'd):** C/O H LINDSAY COMMERCIAL RE  
**Owner City / State / Zip:** NORFOLK VA 23510



## Site Details

**Site Details**  
**Deeded Lot Size #:** 8.22  
**Deed Reference:** 160006596  
**Legal Description:** BUSCH PROP INC LOTS 38 & 39  
**Zoning Code:** GB : General Business  
**Government District:** BRUTON  
**Census Tract:** 509.00

## Election Information

**Election Information**  
**Supervisor District:** 1  
**Voting Precinct:** MAGRUDER  
**Polling Place:** GRIFFIN-YEATES CENTER  
**House District:** 96  
**Senate District:** 1

### School District

**Elementary School District:** MAGRUDER  
**High/Middle School District:** BRUTON/QUEENS LAKE

### Waste Management

**Garbage Day:** WEDNESDAY  
**Recycle Day:** No Data  
**Recycle Week:** No Data

### Fire and Life Safety Information

**Nearest Fire Hydrant(feet):** No Data  
**Fire Station Responding:** 114 HUBBARD LN, 23185

## Assessment Information

	Current Assessment	2018 Assessment	2016 Assessment	2014 Assessment	2012 Assessment	2010 Assessment	2008 Assessment
<b>Land Value:</b>	\$1,643,000	\$1,643,000	\$1,610,000	\$1,610,000	\$1,610,300	\$1,789,200	\$1,843,000
<b>Improvement Value:</b>	\$2,274,400	\$2,648,500	\$2,254,100	\$2,254,100	\$2,860,300	\$3,479,300	\$3,344,400
<b>Total Value:</b>	\$3,917,400	\$4,291,500	\$3,864,100	\$3,864,100	\$4,470,600	\$5,268,500	\$5,187,400

## Site Information

Environmental Considerations		Utilities	
<b>Waterfront:</b>	N	<b>Public Water:</b>	Y
<b>Hurricane Evacuation Zone:</b>	No Data	<b>Public Sewer:</b>	Y *
<b>Flood Zone(s):</b>	X	<b>Well Water:</b>	No Data
<b>Flood Map:</b>	51199C0085D	<b>Septic Tank:</b>	N *
<b>Base Flood Elevation:</b>	NONE	* Utilities data shown here is based on access to public sewer and tap fees paid. If knowledge of the wastewater system is critical please be sure to verify with the property owner.	
<b>Resource Protection Area:</b>	NO		
<b>Resource Management Area:</b>	NO		
<b>200' Watershed Mgt Prot Area Protection Area:</b>	NO		
<b>500' Watershed Mgt Prot Area Protection Area:</b>	NO		
<b>Aircraft Noise Impact Area:</b>	NO		

## Improvements Information

<b>Year Built:</b>	1981	<b>Bedrooms:</b>	0
<b>Primary Building Square Footage*:</b>	85,062	<b>Bathrooms:</b>	No Data
<b>Stories:</b>	1	<b>Fireplaces:</b>	0
<b>Total Rooms:</b>	No Data	<b>Central Heat:</b>	Y
		<b>Central Air:</b>	Y
		<b>Fuel Type:</b>	UNKNWN

Construction		Additional Details		Other Details	
<b>Foundation Type:</b>	Slab	<b>Building</b>	Size/Quantity	<b>Building Size</b>	Size/Quantity
<b>Roof Type:</b>	Tar/Gravel			<b>ASPHALT</b>	111,394
<b>Exterior Type:</b>	Brick				
<b>Basement:</b>	NONE				

\*May or may not reflect gross living area in entirety. Please contact the Real Estate Assessment Division for clarification at (757) 890-3720.

## Ownership History

Owner Name	Date of Transfer	Consideration	Deed	Fair Market Sale
AMERITAS LIFE INSURANCE CORP ETAL	4/25/2016	\$ .00	160006596	Non-Qualifying
OLD STRAND LLC	7/20/2005	\$4,300,000.00	050017661	Non-Qualifying
VILLAGE SHOPS LLC	7/29/2002	\$2,593,000.00	020015474	Non-Qualifying

# York County, Virginia

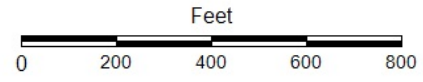
## Legend

- Parcel Boundary
- Plat Link



**Title: Parcel Boundary**

**Date: 9/9/2020**



*DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and York County is not responsible for its accuracy or how current it may be.*

F

Third-Party RESNET  
Rater Certification  
(MANDATORY)



Appendix F

RESNET Rater Certification of Development Plans

I certify that the development's plans and specifications incorporate all items for the required baseline energy performance as indicated in Virginia's Qualified Allocation Plan (QAP).

In the event the plans and specifications do not include requirements to meet the QAP baseline energy performance, 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).

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.
Rater understands that before issuance of IRS Form 8609, applicant will obtain and provide EnergyStar Certification to VHDA.

Rehabilitation -30% performance increase over existing, based on HERS Index
Or Must evidence a HERS Index of 80 or better
Rater understands that before issuance of IRS Form 8609, rater must provide Certification to VHDA of energy performance.

Adaptive Reuse - Must evidence a HERS Index of 95 or better.
Rater understands that before issuance of IRS Form 8609, rater must provide Certification to VHDA of energy performance.

Additional Optional Certifications

I certify that the development's plans and specifications incorporate all items for the certification as indicated below, and I am a certified verifier of said certification. In the event the plans and specifications do not include requirements to obtain the certification, then those requirements still must be met, even though the application is accepted for credits. Rater understands that before issuance of IRS Form 8609, applicant will obtain and provide Certification to VHDA.

FALSE Earthcraft Certification - The development's design meets the criteria to obtain Viridiant's EarthCraft Multifamily program Gold certification or higher

FALSE LEED Certification - The development's design meets the criteria for the U.S. Green Building Council LEED green building certification.

FALSE National Green Building Standard (NGBS) - The development's design meets the criteria for meeting the NGBS Silver or higher standards to obtain certification

FALSE Enterprise Green Communities - The developmen's design meets the criteria for meeting meeting the requirements as stated in the Enterprise Green Communities Criteria for this developments construction type to obtain certification.

\*\*\*Please Note Raters must have completed 500+ ratings in order to certify this form

Signed: [Signature]

Date: 9.9.2020

Printed Name: Matt Waring

RESNET Rater

Resnet Provider Agency
Viridiant

Signature [Signature]

Provider Contact and Phone/Email sean.evensen-shanley@viridiant.org 804-212-1934



# Home Energy Rating Certificate

## Projected Report

Rating Date: 2020-09-03  
 Registry ID:  
 Ekotrope ID: 3LMQ105L

### HERS® Index Score:

# 64

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

# \$646

\*Relative to an average U.S. home

**Home:**  
 1915 Pocahontas Trail  
 Williamsburg, VA 23185

**Builder:**  
 Marlyn

### Your Home's Estimated Energy Use:

	Use [MBtu]	Annual Cost
Heating	4.0	\$123
Cooling	1.3	\$41
Hot Water	5.9	\$182
Lights/Appliances	16.4	\$511
Service Charges		\$84
Generation (e.g. Solar)	0.0	\$0
<b>Total:</b>	<b>27.5</b>	<b>\$941</b>

**This home meets or exceeds the criteria of the following:**

### Rating Completed by:

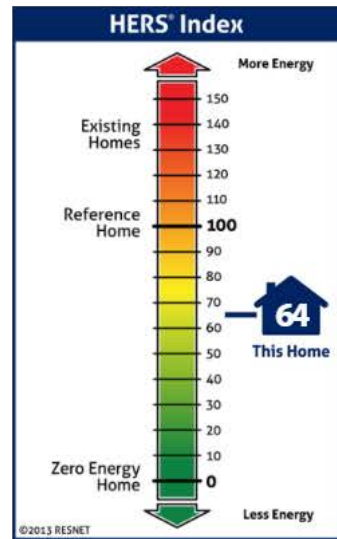
**Energy Rater:** Bill Riggs  
 RESNET ID: 3259518

**Rating Company:** Viridiant  
 1431 W. Main Street, Richmond, VA 23220

**Rating Provider:** Viridiant  
 1431 W. Main Street, Richmond, VA 23220



Bill Riggs, Certified Energy Rater  
 Digitally signed: 9/8/20 at 5:43 PM



### Home Feature Summary:

- Home Type: Apartment, end unit
- Model: N/A
- Community: N/A
- Conditioned Floor Area: 1,147 ft<sup>2</sup>
- Number of Bedrooms: 2
- Primary Heating System: Air Source Heat Pump • Electric • 8.5 HSPF
- Primary Cooling System: Air Source Heat Pump • Electric • 15 SEER
- Primary Water Heating: Water Heater • Electric • 0.95 Energy Factor
- House Tightness: 5 ACH50
- Ventilation: 50 CFM • 250 Watts
- Duct Leakage to Outside: 45.88 CFM @ 25Pa (4 / 100 s.f.)
- Above Grade Walls: R-19
- Ceiling: Adiabatic, R-11
- Window Type: U-Value: 0.3, SHGC: 0.4
- Foundation Walls: N/A

## The Arbors at Williamsburg 2020 Energy Star Modeling Summary

### **Project Summary**

The Arbors at Williamsburg is a low-rise multifamily development, comprised of 150 units across 1 building located in Williamsburg, VA. Marlyn Development plans to construct the project utilizing 4% LIHTC funding. As part of the application the project is seeking Energy Star certification under Version 3 of the program.

### **Unit-Level Energy Modeling**

Unit-level models were generated using Ekotrope V3.2.2 based on the proposed scope and plans provided by the project team on August 5<sup>th</sup>, 2020. With the current scope of work, the worst case unit in the development is obtaining a **HERS 64**. Based on the scope outlined below, The Arbors at Williamsburg is on track to meet Energy Star requirements and target HERS score of 73 or less.

### **Enclosure:**

- R-10 slab edge, 2' insulation underneath slab
- R-19 GII Fiberglass batt insulation in exterior walls
- R-19 Batt insulation in rim joist
- R-11 Grade II cavity insulation in adiabatic walls
- R-11 Grade II cavity insulation between floors
- 0.17 U value for entry doors (Energy Star minimum requirement)
- 0.30 U Value / 0.40 SHGC windows (Energy Star minimum requirement)
- R-49 blown insulation in attic

### **Mechanicals:**

- 15 SEER 8.5 HSPF 18k Heat Pumps w/ECM motor
- 40 gallon electric storage – 0.93 UEF (Equivalent to .95EF)
- 5 ACH<sub>50</sub> for infiltration threshold/blower door test based on Energy Star requirements
- 4% duct leakage to the outside, 8% total duct leakage
- Ductwork insulated to R-6 in conditioned space
- Mechanical ventilation provided by an air cycler per ASHRAE 62.2 requirements

**Lights & Appliances:**

- ES rated kitchen appliances
  - 390 kWh refrigerator
  - 270 kWh dishwasher
- 100% LED lighting

Please let me know if you have any questions or if the above information does not accurately capture your current scope, happy to make adjustments wherever necessary.

Sincerely,



Bill Riggs  
*Multifamily Project Manager, Viridiant*

G

Zoning Certification Letter  
(MANDATORY)



# Zoning Certification

**DATE:** 8/11/20

**TO:** Virginia Housing Development Authority  
601 South Belvidere Street  
Richmond, Virginia 23220  
Attention: JD Bondurant

**RE:** ZONING CERTIFICATION

Name of Development: The Arbors at Williamsburg

Name of Owner/Applicant: Williamsburg Senior L.P.

Name of Seller/Current Owner: Ameritas Life Insurance Corporation

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:  
1915 Pocahontas Trail  
Williamsburg, VA 23185

### Legal Description:

All those certain lots, pieces or parcels of land, lying, situate and being in the County of York, Virginia, being known, numbered and designated as Lots 38 and 39 on a certain Plat entitled "Physical Survey of Lots 39 and Remaining Portion of Lot 38 for Sixty East Associates, York County, Virginia to be conveyed to Sixty East Associates," dated May 25, 1995, and recorded in the Clerk's Office of the Circuit Court of York County, Virginia, in Plat Book 12, at Page 248. A copy is attached hereto.

### Proposed Improvements:

<input checked="" type="checkbox"/> New Construction:	<u>150</u> # Units	<u>1</u> # Buildings	<u>227,115</u> Approx. Total Floor Area Sq. Ft.
<input type="checkbox"/> Adaptive Reuse:	_____ # Units	_____ # Buildings	_____ Approx. Total Floor Area Sq. Ft.
<input type="checkbox"/> Rehabilitation:	_____ # Units	_____ # Buildings	_____ Approx. Total Floor Area Sq. Ft.

**Zoning Certification, cont'd**

Current Zoning: Planned Development Residential allowing a density of 20 units per acre, and the following other applicable conditions: \_\_\_\_\_

Other Descriptive Information:  
\_\_\_\_\_  
\_\_\_\_\_

**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.

Adam Reimert

Signature

Adam Reimert

Printed Name

Project Manager

Title of Local Official or Civil Engineer

(757) 253-0040

Phone:

August 11, 2020

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.

H

Attorney's Opinion  
(MANDATORY)

September 23, 2020

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

RE: 2020 Tax Credit Reservation Request

Name of Development: The Arbors at Williamsburg  
Name of Owner: Williamsburg Senior, LP

Ladies and 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 23, 2020 (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 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.

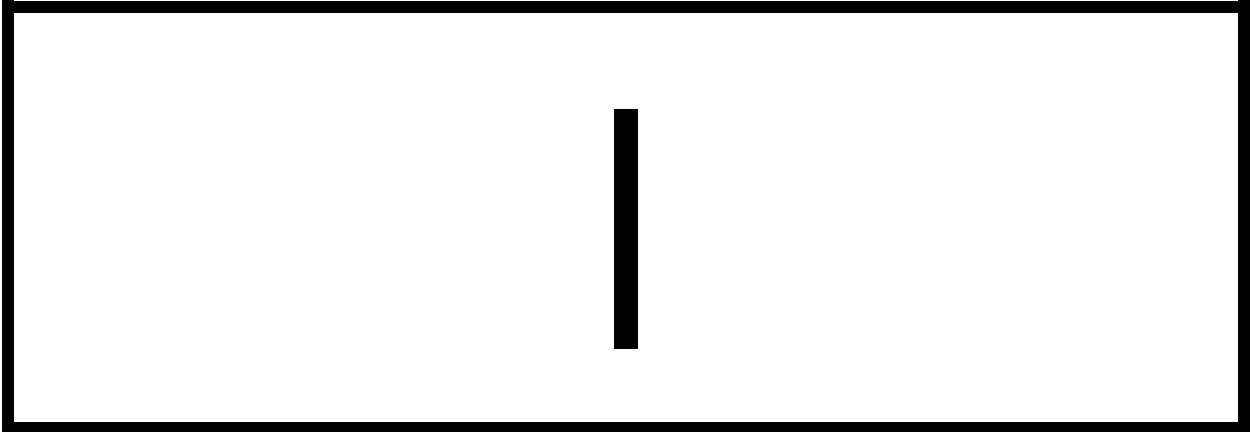
Finally, the undersigned is of the opinion that, if all information and representations contained in the Application and all current law were to remain unchanged, upon the placement in service of each building of the Development, the Owner would be eligible under the applicable provisions of the Code 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.

KAUFMAN & CANOLES,  
a Professional Corporation

By:   
\_\_\_\_\_  
Timothy O. Trant II, Member



# Nonprofit Questionnaire

**(MANDATORY for points or pool)**

**Not Applicable**

J

# Relocation Plan

(MANDATORY, if tenants are displaced)

**Not Applicable**

K

Documentation of  
Development Location

**Not Applicable**

**K.1**

Revitalization Area  
Certification



**Not Applicable**

K.2

Location Map



K.3

Surveyor's Certification of  
Proximity to Public  
Transportation

**Surveyor's Certification of Proximity to Transportation**

DATE:

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

RE: 2020 Tax Credit Reservation Request

Name of Development: The Arbors at Williamsburg  
Name of Owner: Marilyn Development Corporation

Gentlemen:

This letter is submitted to you in support of the Owner's Application for Reservation of Low Income Housing Tax Credits under Section 42 of the Internal Revenue Code of 1986, as amended.

Based upon due investigation of the site and any other matters as it deemed necessary this firm certifies that: the main street boundary entrance to the property is within:

- 2,640 feet or ½ mile of the nearest access point to an existing commuter rail, light rail or subway station; or
- 1,320 feet or ¼ mile of the nearest access point to an existing public bus stop.



AES Consulting Engineers  
Firm Name

By: SAMUEL J. BICKERS, L.S.

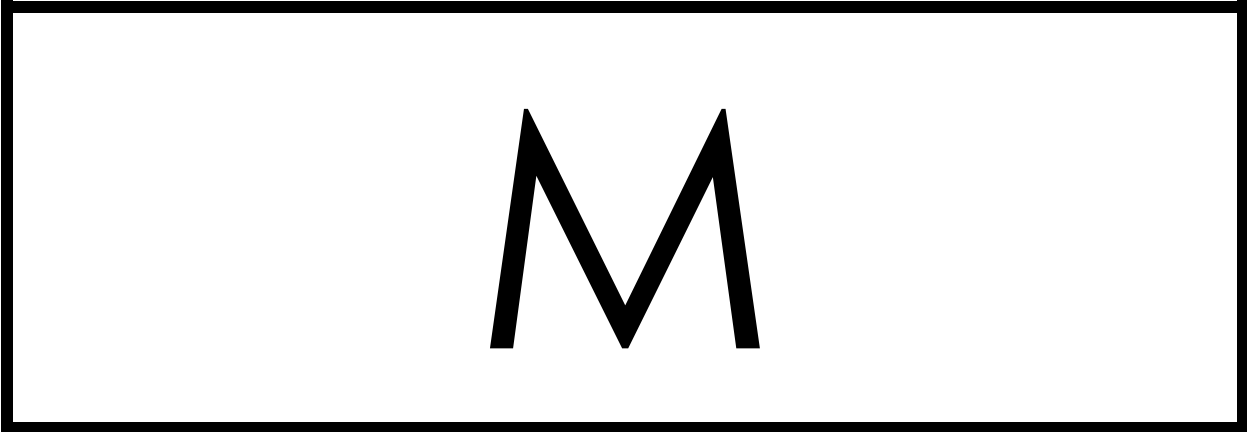
Its: DIRECTOR OF SURVEYING  
Title



L

PHA/Section 8 Notification  
Letter

**Not Applicable**



M

Locality CEO Response  
Letter

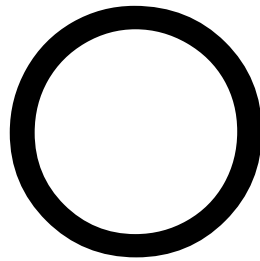


**Tab M – Submitted Separately**

N

Homeownership Plan

**Not Applicable**



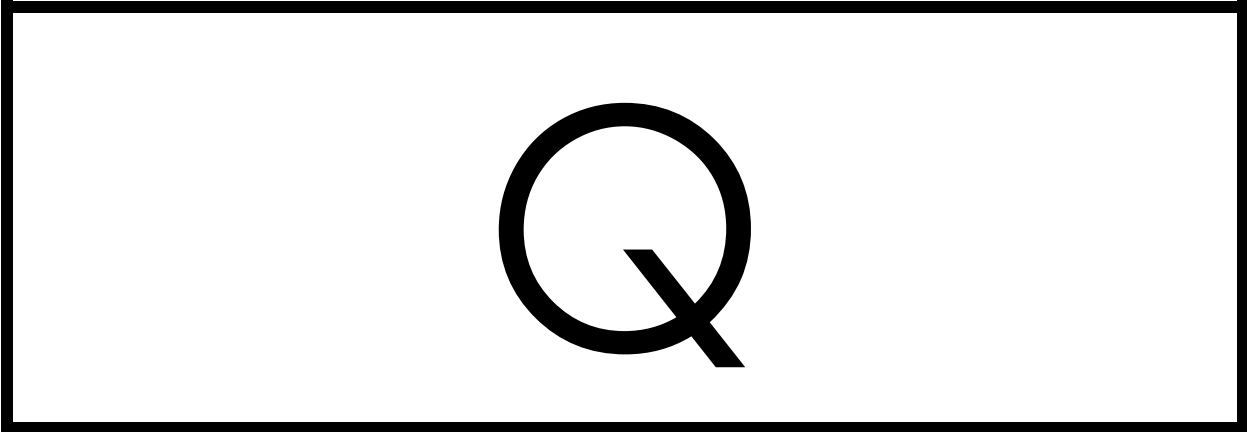
Plan of Development  
Certification Letter

**Not Applicable**

P

Copies of 8609s to  
Certify Developer  
Experience and  
Partnership agreements

**M. David Jester has been pre-approved for Developer Experience**



Q

Documentation of Rental  
Assistance



**Not Applicable**

R

Documentation of  
Operating Budget

**2020 Low-Income Housing Tax Credit Application For Reservation**

**M. OPERATING EXPENSES**

**Administrative:**

Use Whole Numbers Only!

1. Advertising/Marketing		\$7,500
2. Office Salaries		\$25,000
3. Office Supplies		\$5,000
4. Office/Model Apartment	(type _____ )	\$0
5. Management Fee		\$104,159
<u>4.75%</u> of EGI	<u>\$694.39</u> Per Unit	
6. Manager Salaries		\$105,000
7. Staff Unit (s)	(type _____ )	\$0
8. Legal		\$5,000
9. Auditing		\$20,000
## Bookkeeping/Accounting Fees		\$0
## Telephone & Answering Service		\$2,500
## Tax Credit Monitoring Fee		\$2,500
## Miscellaneous Administrative		
<b>Total Administrative</b>		<b>\$276,659</b>

**Utilities**

## Fuel Oil		\$0
## Electricity		\$23,000
## Water		\$75,000
## Gas		\$0
## Sewer		\$15,000
<b>Total Utility</b>		<b>\$113,000</b>

**Operating:**

## Janitor/Cleaning Payroll		\$32,500
## Janitor/Cleaning Supplies		\$7,500
## Janitor/Cleaning Contract		\$0
## Exterminating		\$5,000
## Trash Removal		\$11,000
## Security Payroll/Contract		\$0
## Grounds Payroll		\$0
## Grounds Supplies		\$0
## Grounds Contract		\$20,000
## Maintenance/Repairs Payroll		\$45,000
## Repairs/Material		\$28,000
## Repairs Contract		\$7,000
## Elevator Maintenance/Contract		\$12,000
## Heating/Cooling Repairs & Maintenance		\$12,000
## Pool Maintenance/Contract/Staff		\$0
## Snow Removal		\$2,000
## Decorating/Payroll/Contract		\$3,000
## Decorating Supplies		\$1,000
## Miscellaneous		\$22,500
<b>Totals Operating &amp; Maintenance</b>		<b>\$208,500</b>

**2020 Low-Income Housing Tax Credit Application For Reservation**

**M. OPERATING EXPENSES**

**Taxes & Insurance**

## Real Estate Taxes	\$150,000
## Payroll Taxes	\$13,000
## Miscellaneous Taxes/Licenses/Permits	\$1,800
## Property & Liability Insurance	\$40,000
## Fidelity Bond	\$400
## Workman's Compensation	\$600
## Health Insurance & Employee Benefits	\$5,000
## Other Insurance	\$0
<b>Total Taxes &amp; Insurance</b>	<b>\$210,800</b>

<b>Total Operating Expense</b>	<b>\$808,959</b>
--------------------------------	------------------

<b>Total Operating Expenses Per Unit</b>	<b>\$5,393</b>	<b>C. Total Operating Expenses as % of</b>	<b>36.89%</b>
--	----------------	--	---------------

<b>Replacement Reserves (Total # Units X \$300 or \$250 New Const. Elderly Mini</b>	<b>\$37,500</b>
---	-----------------

<b>Total Expenses</b>	<b>\$846,459</b>
-----------------------	------------------

**ACTION:** Provide Documentation of Operating Budget at **Tab R** if applicable.

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
Eff. Gross Income	2,192,828	2,236,685	2,281,419	2,327,047	2,373,588
Less Oper. Expenses	846,459	871,853	898,008	924,949	952,697
Net Income	1,346,369	1,364,832	1,383,410	1,402,098	1,420,891
Less Debt Service	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
Cash Flow	221,005	239,468	258,046	276,734	295,527
Debt Coverage Ratio	1.20	1.21	1.23	1.25	1.26

	Year 6	Year 7	Year 8	Year 9	Year 10
Eff. Gross Income	2,421,060	2,469,481	2,518,871	2,569,248	2,620,633
Less Oper. Expenses	981,278	1,010,716	1,041,038	1,072,269	1,104,437
Net Income	1,439,782	1,458,765	1,477,833	1,496,979	1,516,196
Less Debt Service	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
Cash Flow	314,418	333,401	352,469	371,615	390,832
Debt Coverage Ratio	1.28	1.30	1.31	1.33	1.35

	Year 11	Year 12	Year 13	Year 14	Year 15
Eff. Gross Income	2,673,046	2,726,506	2,781,037	2,836,657	2,893,391
Less Oper. Expenses	1,137,570	1,171,697	1,206,848	1,243,054	1,280,345
Net Income	1,535,475	1,554,809	1,574,188	1,593,604	1,613,045
Less Debt Service	1,125,364	1,125,364	1,125,364	1,125,364	1,125,364
Cash Flow	410,111	429,445	448,824	468,240	487,681
Debt Coverage Ratio	1.36	1.38	1.40	1.42	1.43

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

# ProCraft Inspection Services

757.362.2300 • www.procraftinspections.com

May 24, 2020

Brian Staub  
Marlyn Development Corporation  
308 35<sup>th</sup> St, STE 101  
Virginia Beach, VA 23451

Re: Arbors at Williamsburg

Brian,

The monthly average electric cost for the Arbors at Williamsburg has been estimated to be:

\$31 for a one bedroom with 656 square feet  
\$32 for a one bedroom with 788 square feet  
\$50 for a two bedroom with 1,037 square feet

\*One bedroom assumes 2 occupants, two bedrooms assume 3 occupants.

Pursuant to Option 2 in the VHDA Utility Allowance Options and Procedures issued on February 12, 2009, the utilities were estimated by an unrelated RESNET professional using an energy consumption model. The estimate reflects current rates as of March 31, 2020.

Respectfully,



Brad Brinke  
ProCraft Inspection Services  
HERS Rater #7280903



Energy audits • energy ratings • weatherization • property inspections

# ProCraft Inspection Services

757.362.2300 • [www.procraftinspections.com](http://www.procraftinspections.com)

## Electric Fixtures Used:

AO Smith electric water heater ENT-40

GE refrigerator GTE-16GT

GE dishwasher GSD3360

GE clothes washer GTW220AC

GE clothes dryer GTX22EAS

Rheem 14SEER heat pump

Arbors at Williamsburg electric use per unit was estimated and modeled using the US Department of Energy's "Home Energy Saver".

Electric rates at \$.02 for the first 800 KWH and \$.012 for over 800 KWH

Monthly Meter Fee \$7.00



Energy audits • energy ratings • weatherization • property inspections

S

Supportive Housing  
Certification



**Not Applicable**

T

Funding Documentation

**Not Applicable**

U

Documentation to  
Request Exception to  
Restriction-Pools with  
Little/No Increase in Rent  
Burdened Population

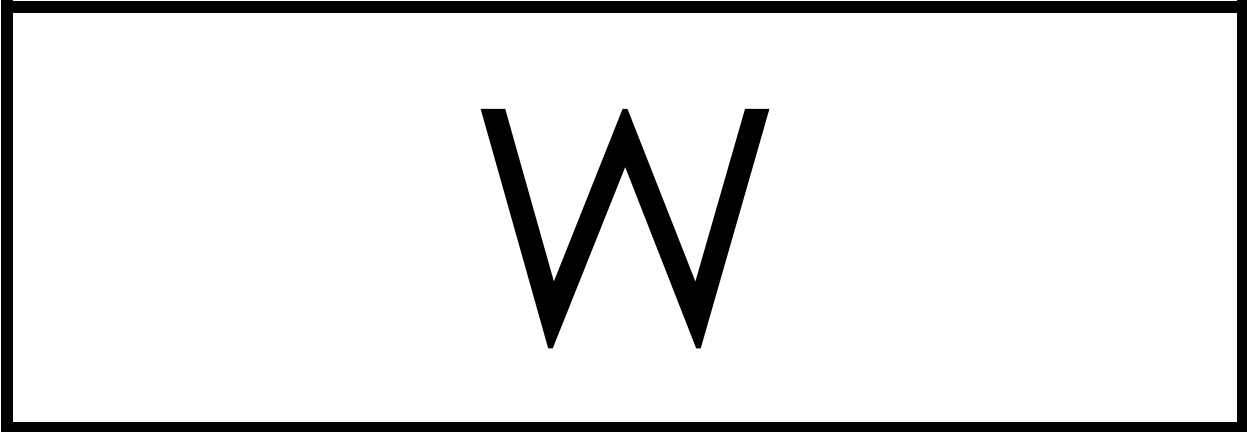
**Not Applicable**



V

Nonprofit or LHA Purchase  
Option or Right of First  
Refusal

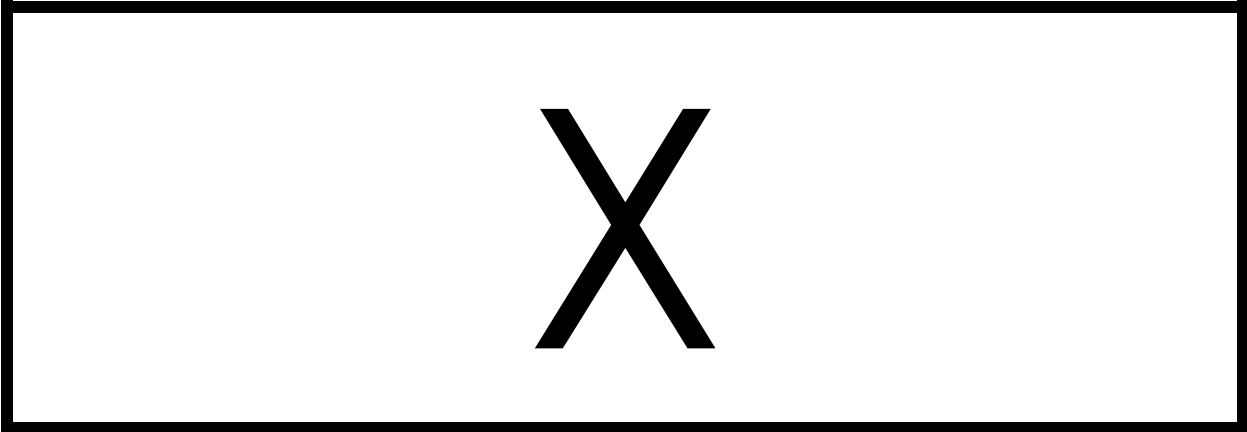
**Not Applicable**



W

(Reserved)





X

# Marketing Plan

For units meeting accessibility requirements of HUD section

504

**Not Applicable**